

STATE OF GEORGIA

I

WRIT OF ERROR FROM CHATHAM SUPERIOR COURT  
TO THE SUPREME COURT OF GEORGIA

COUNTY OF CHATHAM

I

TROY ANTHONY DAVIS  
APPELLANT

VS

INDICTMENT NUMBER 089-2467-H

STATE OF GEORGIA  
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SUPERIOR COURT-CHATHAM COUNTY, GEORGIA-EASTERN JUDICIAL CIRCUIT

DORIS S. STEPHENS  
CLERK OF SUPERIOR COURT  
P.O. BOX 10270  
SAVANNAH, GEORGIA 31412

TELEPHONE NUMBER: (912)-944-4794

CASE NUMBER: 089-2467-H

TROY ANTHONY DAVIS  
APPELLANT

ROBERT E. FALLIGANT JR.  
ROBERT E. BARKER  
ATTORNEY

POST OFFICE BOX 9236  
ADDRESS

SAVANNAH, GEORGIA 31412

(912) 236-2774  
TELEPHONE

VS

STATE OF GEORGIA  
APPELLEE

SPENCER LAWTON  
ATTORNEY

133 MONTGOMERY STREET  
ADDRESS

SAVANNAH, GEORGIA 31401

(912) 652-7308  
TELEPHONE

BILL DELOACH  
COURT REPORTER

133 MONTGOMERY STREET ROOM 511  
ADDRESS

SAVANNAH, GEORGIA 31401

(912) 652-7168  
TELEPHONE

FILED IN OFFICE

**IN THE SUPERIOR COURT OF CHATHAM COUNTY** APR 13 1992  
**STATE OF GEORGIA**

*[Signature]*  
Dep. Clerk, Superior Court  
CHATHAM COUNTY, GA.

**STATE OF GEORGIA** )  
 )  
**VS.** ) **CASE NO. 089-2467-H**  
 )  
**TROY ANTHONY DAVIS** )  
**DEFENDANT** )

**NOTICE OF APPEAL**

Notice is hereby given that Troy Anthony Davis, Defendant above named, hereby appeals to the Georgia Supreme Court from the judgement of conviction and sentence entered herein on September 3, 1991.

The offense for which Defendant was convicted is Murder, Obstruction (Felony) Possession of a Firearm, during the commission of a felony, Aggravated Assault (2 counts).

and the sentence imposed is as follows: Murder; Death Count One; Count Two - Obstruction 5 years consecutive to Count One; Possession of Firearm - 5 years consecutive to Count Two; Aggravated Assault - 2 Counts - Twenty years on each Count to run concurrent to Count One.

Motion for New Trial was filed and overruled on March 16th, 1992.

The clerk will please omit nothing from the record on appeal.

Transcript of evidence and proceedings will be filed for inclusion in the record on appeal.

This Court, rather than the ~~Supreme~~ <sup>OF APPEALS</sup> Court has jurisdiction of this case on appeal for the reason that the death penalty is involved.

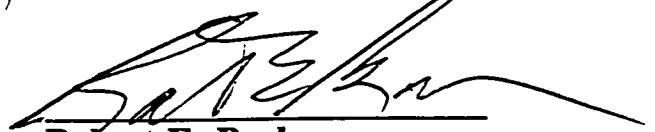
This 13<sup>th</sup> day of April, 1992.

Respectfully submitted,



Robert E. Falligant, Jr.

State Bar Number 254800



Robert E. Barker

State Bar Number 037700

Attorneys for the Defendant

Troy Anthony Davis

P.O. Box 9236  
Savannah, Georgia 31412  
(912) 236-2774

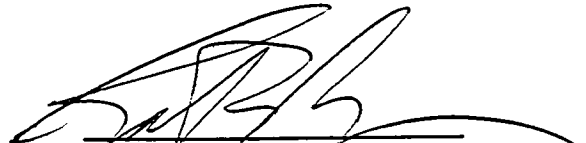


**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that I have this day served the following counsel of record in the above and foregoing matter with a copy of this document by placing a copy of the same in the United States Mail with adequate postage thereon:

**U.S. DISTRICT ATTORNEY  
SPENCER LAWTON  
CHATHAM COUNTY COURTHOUSE  
COURTHOUSE ROOM #400  
133 MONTGOMERY STREET  
SAVANNAH, GA 31401**

This 13 day of April, 1992.

  
**ROBERT E. BARKER  
STATE BAR NO 037700**

**P.O. Box 10072  
Savannah, Georgia 31412  
(912) 236-2774**

IN THE SUPERIOR COURT OF CHATHAM COUNTY

STATE OF GEORGIA

FILED IN OFFICE

APR 13 1992

Dep. Clerk, Superior Court  
CHATHAM COUNTY, GA.

STATE OF GEORGIA

vs

TROY ANTHONY DAVIS,

Defendant

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INDICTMENT NO: #089-2467-1

NOTICE OF APPEAL

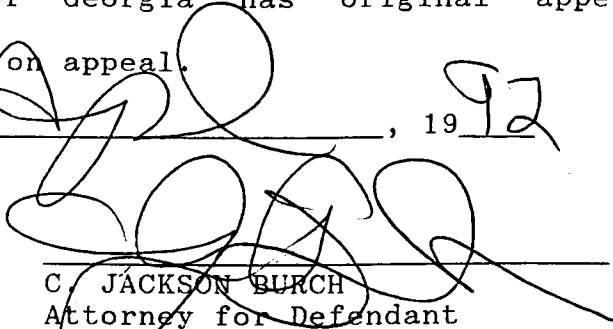
Notice is hereby given that TROY ANTHONY DAVIS, Defendant named above, hereby appeals to The Supreme Court of Georgia from the Judgement entered in the within and foregoing case on March 16, 1992 in the Superior Court of Chatham County, Georgia denying Defendant's Amended Motion for New Trial, including ineffective assistance of counsel issues. The offense for which Defendant was convicted was MURDER.

Defendant was sentenced to death.

The Clerk will please omit nothing from the record on appeal, but shall include every part of the record including the pre-trial motions and the charge to the Jury by the Court. The transcript of the evidence, motions and proceedings should be filed for inclusion in the record on appeal.

The Supreme Court of Georgia has original appellate jurisdiction of this matter on appeal.

This B day of April, 1992

  
C. JACKSON BURCH  
Attorney for Defendant  
Georgia Bar No: #094510  
111 East Oglethorpe Avenue  
Savannah, GA 31401  
(912) 232-7522

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the following:

Notice of Appeal

X by hand delivery

\_\_\_\_\_ by depositing a copy of same in the United States Mail with sufficient postage thereon to insure delivery to:

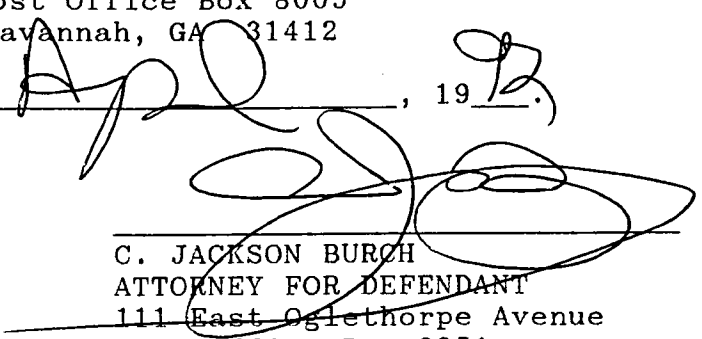
The Office of The District Attorney  
Chatham County Courthouse  
133 Montgomery Street  
Sixth Floor  
Savannah, GA 31499

Robert E. Barker, Esquire  
23 East Charlton Street  
Savannah, GA 31401

Robert E. Falligant, Jr., Esquire  
23 East Charlton Street  
Savannah, GA 31401

Ms. Nancy Askew  
Post Office Box 8005  
Savannah, GA 31412

This 13 day of April, 1992.

  
C. JACKSON BURCH  
ATTORNEY FOR DEFENDANT  
111 East Oglethorpe Avenue  
Post Office Box 8251  
Savannah, GA 31401  
(912) 232-7522  
Georgia Bar No: #094510

FILED IN OFFICE

IN THE SUPERIOR COURT OF CHATHAM COUNTY APR 13 1992

STATE OF GEORGIA

  
Dep. Clerk, Superior Court  
CHATHAM COUNTY, GA.

STATE OF GEORGIA

vs

TROY ANTHONY DAVIS,

Defendant

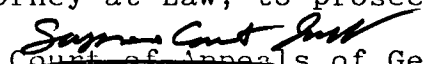
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INDICTMENT NO: #089-2467-1

ORDER AUTHORIZING ATTORNEY FOR INDIGENT PERSON TO  
APPEAL FROM ORDER OVERRULING MOTION FOR NEW TRIAL

Defendant's Motion for New Trial coming on to be heard and after hearing argument by counsel the same was overruled and a new trial is denied on each and every ground therein.

Also, it appearing that the Court heretofore previously appointed C. JACKSON BURCH, Attorney at Law, to represent Defendant on appeal because of his poverty, pursuant to O.C.G.A. 17-12-60 and 61; and it appearing further to the Court that the said TROY ANTHONY DAVIS is indigent and because of his poverty unable to obtain an attorney to prosecute his appeal;

WHEREFORE, the Court does hereby authorize, C. JACKSON BURCH, Attorney at Law, to prosecute the appeal of TROY ANTHONY DAVIS to the ~~Court of Appeals~~  of Georgia pursuant to O.C.G.A. 17-20-60 and 61.

SO ORDERED this 13 day of April, 1992

  
THE HONORABLE JAMES W. HEAD  
JUDGE, SUPERIOR COURT, EJC

IN THE SUPERIOR COURT OF CHATHAM COUNTY

STATE OF GEORGIA

FILED IN OFFICE

APR 3 1992

Dep. Clerk, Superior Court  
CHATHAM COUNTY, GA.

STATE OF GEORGIA

vs

TROY ANTHONY DAVIS,

Defendant

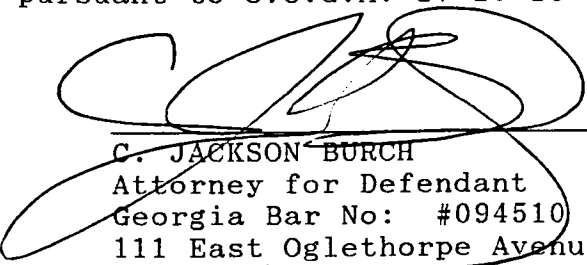
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\*

INDICTMENT NO: #089-2467-1

AFFIDAVIT OF ATTORNEY FOR INDIGENT PERSON ON APPEAL

Personally comes C. JACKSON BURCH, Attorney at Law, appointed to prosecute the appeal of TROY ANTHONY DAVIS, to the Supreme Court of Georgia, who deposes and says on his solemn oath that he is seeking said appeal in good faith and upon reasonable grounds as he verily believes.

This Affidavit made pursuant to O.C.G.A. 17-20-16 and 61.

  
C. JACKSON BURCH  
Attorney for Defendant  
Georgia Bar No: #094510  
111 East Oglethorpe Avenue  
Savannah, GA 31401  
(912) 232-7522

Sworn to and subscribed before me  
this 13th day of April,  
1992.

  
NOTARY PUBLIC

## CRIMINAL WARRANT

Recorder's Court of Chatham County  
(Name of Court)

STATE OF GEORGIA, Chatham County

Personally came Detective Greg P. Ramsey who on oath says that,  
to the best of his knowledge and belief Troy Anthony Davis, did, on the 19 day of  
August in the year Nineteen-Hundred and 89, in the county afore-  
said commit the offense of MURDER  
(Describe Offense)  
at approximately 1:10 (A.M.) XXXX MURDER against  
Police Officer Mark A. MacPhail  
(Name of Victim)  
by Shooting to death police officer Mark A. MacPhail at 610 W. Oglethrope Ave.  
on August 19, 1989 at approx. 1:10 A.M. Savannah, Chatham County, Ga.  
(If larceny describe property alleged to have been stolen with a description thereof, the name of the owner, the value of such  
property and the name of the person from whose possession such property was taken.)

Sav., Ch. Co., Ga.

and this deponent makes this affidavit that a warrant may issue for the arrest of said defendant.

Sworn to and subscribed before me, this 19 day of August 19 89

*Travis E. Ruff*  
Judge, The Recorder's Court of Chatham County

*Troy Anthony Davis*  
(Deponent)

Sec. 27-103 &amp; 27-103-1 &amp; 104

GEORGIA, CHATHAM COUNTY

To the Sheriff of Chatham County and his lawful Deputies, all and singular the Sheriffs of this State and their lawful deputies, lawful Con-  
stantles of this State, the officers of the Chatham County Police Department, the officers of the Police Department of the City of Savannah and  
other municipalities in Chatham County, the State Patrol and all other law enforcement officers and agents of this State Greeting:

detective Greg P. Ramsey makes oath before me that on the 19 day of  
(Name of Deponent)

August in the year 19 89 the county aforesaid Troy Anthony Davis  
(Name of Defendant)

did commit the offense of MURDER

at approximately 1:10 (A.M.) XXXX at 610 W. Oglethrope Ave., Savannah, Chatham County, Ga.  
against Police Officer Mark A. MacPhail by Shooting to death police officer Mark A.  
(Name of Victim)

MacPhail at 610 W. Oglethrope Ave. Savannah, Chatham County, GA., on August 19, 1989  
(Repeat what is in deponent's affidavit)

at approx. 1:10 A.M.

Sav., Ch. Co., Ga.

You are therefore commanded to arrest the body of the said Troy Anthony Davis  
(Name of Defendant)

and bring him before me or some other judicial officer of this State, to be dealt with as the law directs. Herein fail not.

Sec. 27-103

*Travis E. Ruff* (L.S.)  
Judge, The Recorder's Court of Chatham County

STATE OF GEORGIA  
CHATHAM COUNTY

I have this day executed the foregoing warrant Aug 23 19 89 at 1650 (A.M.) (P.M.)  
*Det. Greg P. Ramsey*  
*Savannah Police Dept*  
Title of Officer

GEORGIA, CHATHAM COUNTY

Troy A. Davis having been arrested on a warrant for the offense of  
(Name of Defendant) MURDER

and brought before me after hearing evidence it is ordered that he be committed for trial for the offense of MURDER

And the jailer of said county is required to receive and safely keep him until discharged by due process of law.

It is further ordered that said defendant be allowed to bind himself with sufficient securities in a bond of \_\_\_\_\_

\_\_\_\_\_ Dollars for his appearance at the present term or succeeding term or terms  
thereafter of the State Court of Chatham County and/or the Superior Court of Chatham County, Georgia to be held in and for said County until  
the matter shall be finally disposed of as provided by law, in which event he shall be released from being held in jail to answer the said charge.

Witness my hand and seal this 8 day of Sept 19 89

Sec. 27-109

*Travis E. Ruff*  
Judge, The Recorder's Court of Chatham County





STATE OF GEORGIA, COUNTY OF  
CHATHAM

BILL OF INDICTMENT

IN THE SUPERIOR COURT OF SAID COUNTY

THE GRAND JURORS selected, chosen and sworn for the County of Chatham, to-wit:

1	Watson, David Louis	FOREMAN	
2	Arnold, Gwendolyn Eliz	13	Lumpkin, Farnese H.
3	Bowens, Elizabeth L.	14	Mattox, Almisha S.
4	Brannon, C. Swann	15	Mobley, Terri
5	Bright, Noah A., Jr.	16	Moore, Dodie G.
<del>6</del>	<del>Cooper, Rhonda L.</del>	17	Roberts, Carrie
7	Elkins, Jonathan C.	18	Shaw, Joel Patterson
8	Falconer, Ann Stiles	19	Stevens, Mary Lee
9	Ferrebee, Sarah L.	<del>20</del>	<del>Stewart, Daniel Miller</del>
10	Harris, Nathaniel M.	21	Tenenbaum, Lorlee S.
11	Hart, Mamie M.	22	Weil, Roxanne Adelle
<del>12</del>	<del>Levy, Dayle H.</del>	<del>23</del>	<del>Wiggers, David Y.</del>

In the name and behalf of the citizens of Georgia, charge and accuse

TROY ANTHONY DAVIS

with the offense of: MURDER

for that said accused, in the County of Chatham and State of Georgia, did, on or about the 19th day of August, 1989, unlawfully and with malice aforethought, cause the death of Mark Allen MacPhail, a human being, by shooting him with a pistol, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof;

COUNT 2 OBSTRUCTION OF A LAW ENFORCEMENT OFFICER

And the jurors aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse TROY ANTHONY DAVIS with having committed the offense of OBSTRUCTION OF A LAW ENFORCEMENT OFFICER; for that the said TROY ANTHONY DAVIS, in the County and State aforesaid, did, on or about the 19th day of August, 1989, knowingly and willfully resist, obstruct and oppose Mark Allen MacPhail, a law enforcement officer, in the lawful discharge of his official duties by doing violence to the person of the said officer, by shooting him with a pistol, contrary to the laws of the state of Georgia, the good order, peace and dignity thereof;

COUNT 3 AGGRAVATED ASSAULT

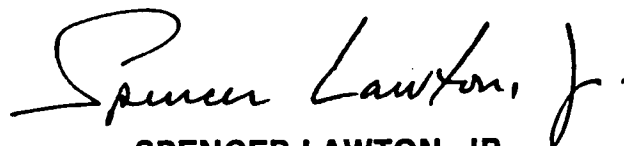
And the jurors aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse TROY ANTHONY DAVIS with having committed the offense of AGGRAVATED ASSAULT; for that the said TROY ANTHONY DAVIS, in the County and State aforesaid, did, on or about the 19th day of August, 1989, make an assault upon the person of Larry Douglas Young with an object which when used offensively against another person is likely to or actually does result in serious bodily injury by striking the said Larry Douglas Young in the head with a pistol, causing serious bodily injury to him, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof;

COUNT 4 AGGRAVATED ASSAULT

And the jurors aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse TROY ANTHONY DAVIS with having committed the offense of AGGRAVATED ASSAULT; for that the said TROY ANTHONY DAVIS, in the County and State aforesaid, did, on or about the 18th day of August, 1989, make an assault upon the person of Michael Cooper with a deadly weapon, by shooting the said Michael Cooper in the face with a pistol, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof;

COUNT 5 POSSESSION OF FIREARM DURING THE COMMISSION OF A FELONY

And the jurors aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse TROY ANTHONY DAVIS with having committed the offense of POSSESSION OF FIREARM DURING THE COMMISSION OF A FELONY; for that the said TROY ANTHONY DAVIS, in the County and State aforesaid, did, on or about the 19th day of August, 1989, have on his person a firearm during the commission of a felony offense involving the person of another, to wit: the murder of Mark Allen MacPhail, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof.



SPENCER LAWTON, JR.  
DISTRICT ATTORNEY  
EASTERN JUDICIAL CIRCUIT  
OF GEORGIA

We, the Jury, find the defendant.

WITNESSES

8/28/91  
Jury Verdicts of  
GUILTY on all counts.

8/30/91  
Jury Punishment  
Death Penalty

9-3-91 Sentencing  
Ct. 1 - Death  
Ct. 2 - 5 yrs consecutive  
to Ct. 1  
20 yrs each  
Cts - 3 & 4 -  
Ct., conc to Ct. 1.  
Ct. 5 - 5 yrs consecutive  
to Ct. 2

FOREMAN

, 19

No. 089-2467-14

Superior Court

of Chatham County, Georgia

SEPTEMBER Term 19 89

THE STATE

VERSUS

TROY ANTHONY DAVIS  
BM DOB 10-09-68  
SSN 259-23-2053

OFFENSE: MURDER, OBSTRUCTION OF A LAW  
ENFORCEMENT OFFICER, AGGRAVATED  
ASSAULT - TWO COUNTS, POSSESSION  
OF FIREARM DURING COMMISSION  
OF FELONY

TRUE BILL

Nov 15, 19 89  
David L. Watson  
FOREMAN

SPENCER LAWTON, JR.  
DISTRICT ATTORNEY  
EASTERN JUDICIAL CIRCUIT  
OF GEORGIA

Defendant, on April 30, 1970

being in open court, pleads

NOT GUILTY

Troy Anthony Davis Jr.  
Defendant  
Attorney for Defendant

Defendant, on

waives the right to trial by jury

Defendant

Attorney for Defendant

SPENCER LAWTON, JR.  
(Assistant) District Attorney

Filed in office this 15 day of  
November, 19 89  
David L. Watson  
(Deputy) Clerk, Superior Court of  
Chatham County, Georgia

TO THE SUPERIOR COURT OF CHATHAM COUNTY GEORGIA  
STATE OF GEORGIA  
COUNTY OF CHATHAM

FILED IN OFFICE

NOV 15 1989

*R. J. Jindal*  
Dep. Clerk, Superior Court  
Chatham County, Ga.

THE STATE OF GEORGIA

VS.

TROY ANTHONY DAVIS,

)  
)  
) CRIMINAL WARRANT  
) NO. 35451  
) INDICTMENT NUMBER  
)

ORDER APPOINTING ATTORNEY FOR INDIGENT PERSON IN CAPITAL  
CASE

It being made to appear to the Court that the Defendant in the above stated case is charged with a Capital Felony, and that he is, because of his poverty, indigent and unable to pay an attorney for his defense, it is thereupon considered and Ordered that Robert E. Barker, be, and is, hereby appointed attorney for said Defendant pursuant to the provisions of O.C.G.A. Section 17-12-60.

So Ordered this 15 day of November, 1989.

*James W. Head*  
Judge, Superior Court of  
Chatham County, Georgia

TO THE SUPERIOR COURT OF CHATHAM COUNTY GEORGIA  
STATE OF GEORGIA  
COUNTY OF CHATHAM

FILED IN OFFICE  
NOV 15 1989  
*R. J. Jindal*  
Dep. Clerk, Superior Court  
Chatham County, Ga.

THE STATE OF GEORGIA )  
 )  
 )  
VS. ) CRIMINAL WARRANT  
 ) NO. 35451  
 ) INDICTMENT NUMBER  
TROY ANTHONY DAVIS, )

MOTION FOR FUNDS TO HIRE AN INVESTIGATOR

NOW COMES Troy Anthony Davis, the Defendant in the above and foregoing case, moves the Court for an Order requiring the State to provide his counsel with adequate funds to investigate and pay other expenses of his defense. In support of this Motion, the Defendant shows as follows:

1. The Defendant is presently incarcerated in the Chatham County Jail and is an indigent. A Pauper's Affidavit is attached hereto and made a part hereof.

2. The Defendant is charged with the offense of murder in warrant number 35451 issued by the Recorder's Court of Chatham County Georgia and, following a preliminary hearing on said warrant, was bound over to the Superior Court which case is presently awaiting presentment to the Grand Jury.

3. If after presentment of said case to the Grand Jury, a true bill is returned, the Defendant intends to enter a plea of not guilty to said offense.

4. The Defendant's counsel has been advised by the State that it intends to seek the Death Penalty in the event of an indictment and conviction of this Defendant.

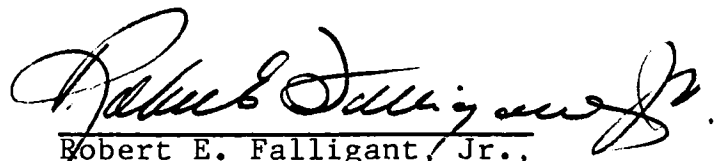
5. The Defendant shows that it is necessary to adequately prepare a defense to the charges presently pending against him, that an investigation be conducted in order for his attorney to adequately prepare for and represent the Defendant in the Trial of the case.

6. The Defendant further shows he is without funds or means necessary to retain the services of an investigator and will hereinafter move the Court for an Order allowing his counsel to hire an investigator and for the costs and expenses of said investigation be paid for by the State of Georgia.

WHEREFORE, Defendant prays that the Court hear and consider this Motion and grant same.

Respectfully submitted this 11<sup>th</sup> day of November, 1989.

FALLIGANT & TOPOREK

  
Robert E. Falligant, Jr.,  
Attorney for  
Troy Anthony Davis  
State Bar No. 254800



FILED IN OFFICE

STATE OF GEORGIA  
COUNTY OF CHATHAMNOV 15 1989.  
*R. J. Jindal*  
Dep. Clerk, Superior Court  
Chatham County, Ga.

TO THE SUPERIOR COURT OF CHATHAM COUNTY GEORGIA

THE STATE OF GEORGIA

VS.

TROY ANTHONY DAVIS,

)  
)  
) CRIMINAL WARRANT  
) NO. 35451  
) INDICTMENT NUMBER  
)ORDER

In appearing to the Court that the Defendant in the above and foregoing case, is an indigent within the meaning of O.C.G.A. Sec.17-12-2 (5) and lacks sufficient funds to employ an investigator, and

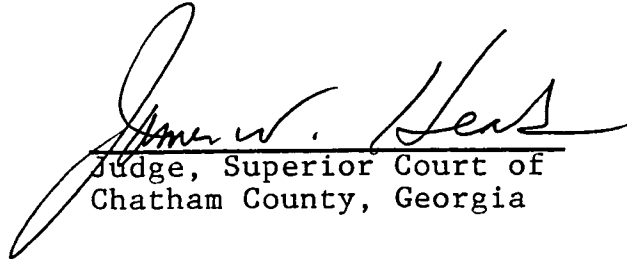
It further appearing to the Court that the Defendant is charged with a Capital Offense and the State has indicated its intention to seek the Death Penalty in the event of a conviction of the Defendant, and

It further appearing to the Court that pursuant to the authority of O.C.G.A. Sec.17-12-60(a) said expenses of preparation and investigation are authorized,

It is hereby Ordered, Adjudged and Decreed that Defendant's counsel is hereby authorized to engage the services of an investigator for the investigation and preparation of the case and that the cost and expenses of such investigation shall be paid for from the County Treasury which expenses shall not exceed the sum of

\$ 3000 <sup>or</sup> ~~xx~~

So Ordered this 15 day of November, 1989.

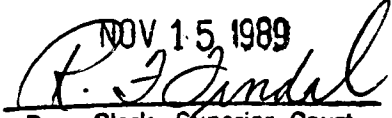
  
\_\_\_\_\_  
Judge, Superior Court of  
Chatham County, Georgia

FILED IN OFFICE

STATE OF GEORGIA

COUNTY OF CHATHAM

PAUPER'S AFFIDAVIT

NOV 15 1989  
  
Dep. Clerk, Superior Court  
Chatham County, Ga.

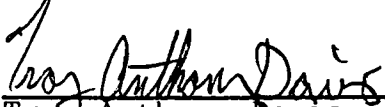
Before the undersigned attesting officer, personally came Troy Anthony Davis who being duly sworn says as follows:

1. That I am Troy Anthony Davis and am presently incarcerated in the Chatham County Jail charged with the offense of murder.


2. That I am unemployed, own no real or personal property and do not have any funds available for the employment of legal counsel to represent me for the charge presently pending against me.

This affidavit is made in support of my request for the appointment of legal counsel and authorization for counsel to engage the services of an investigator and for said expenses to be paid for by State or County Funds.

This 15<sup>th</sup> day of November, 1989.

  
Troy Anthony Davis

Sworn to and subscribed before me this 15<sup>th</sup> day of November, 1989.

  
Notary Public, Chatham County, Georgia  
My Commission Expires 11/1/91

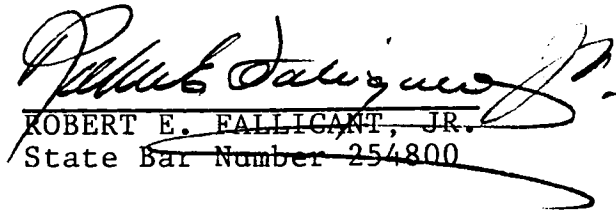
CERTIFICATE OF SERVICE

This is to certify that I have personally served a true and correct copy of the within and foregoing documents for delivery by hand to the following:

Spencer Lawton  
District Attorney  
E.J.C. of Georgia  
Chatham County Courthouse  
Savannah, GA

This 14<sup>th</sup> day of November, 1989.

FALLIGANT & TOPOREK

  
ROBERT E. FALLIGANT, JR.  
State Bar Number 254800

P. O. Box 9236  
Savannah, GA 31412  
(912) 236-2774

*Filed in Open Court  
January 16, 1990  
J. D. Schreck  
Sgt. Clerk, S.C.C.C. La.*

IN THE SUPERIOR COURT OF CHATHAM COUNTY

STATE OF GEORGIA

STATE OF GEORGIA	)	
V.	)	INDICTMENT NO. 089-2467-H
TROY ANTHONY DAVIS	)	MURDER; OBSTRUCTION OF A LAW
	)	ENFORCEMENT OFFICER; AGGRAVATED
	)	ASSAULT (2 COUNTS); POSSESSION
	)	OF FIREARM DURING THE COMMISSION
	)	OF A FELONY
	)	

SERVICE OF INDICTMENT AND NOTICE OF INTENTION  
TO SEEK DEATH PENALTY

The State of Georgia hereby serves the Defendant with a copy of the indictment (attached) in the above styled case.

The State hereby notifies the Defendant, Troy Anthony Davis, of the State's intention to seek the death penalty on the charge of murder.

The State will introduce evidence in the trial and/or sentencing hearing in support of the following statutory aggravating circumstances set forth in O.C.G.A. Section 17-10-30(b):

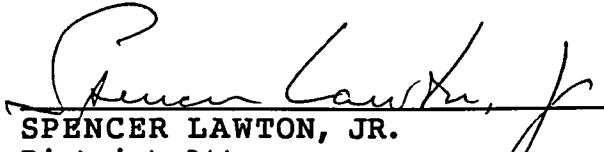
(1) The offense of murder was outrageously or wantonly vile, horrible, or inhuman in that it involved torture, depravity of mind, or an aggravated battery to the victim;

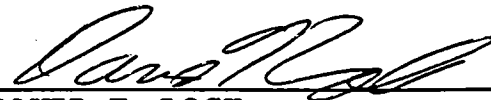
RECEIVED - 01 FEB 07 1990

(2) The offense of murder was committed against a peace officer while engaged in the performance of his official duties;

(3) The murder was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest of himself.

This 16 day of January, 1990.

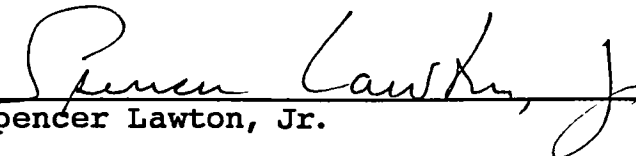
  
SPENCER LAWTON, JR.  
District Attorney  
Eastern Judicial Circuit of Georgia

  
DAVID T. LOCK  
Chief Assistant District Attorney

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing upon Robert Falligant, Attorney for Defendant, by handing him a copy of same.

This 16 day of January, 1990.

  
Spencer Lawton, Jr.

P.O. Box 2309  
Savannah, GA 31402  
(912) 944-4873

**STATE OF GEORGIA, COUNTY OF  
CHATHAM**

**BILL OF INDICTMENT**

**IN THE SUPERIOR COURT OF SAID COUNTY**

**THE GRAND JURORS selected, chosen and sworn for the County of Chatham, to-wit:**

<b>1</b>	<b>Watson, David Louis</b>	<b>FOREMAN</b>	
<b>2</b>	<b>Arnold, Gwendolyn Eliz</b>	<b>13</b>	<b>Lumpkin, Farnese H.</b>
<b>3</b>	<b>Bowens, Elizabeth L.</b>	<b>14</b>	<b>Mattox, Almisha S.</b>
<b>4</b>	<b>Brannon, C. Swann</b>	<b>15</b>	<b>Mobley, Terri</b>
<b>5</b>	<b>Bright, Noah A., Jr.</b>	<b>16</b>	<b>Moore, Dodie G.</b>
<del><b>6</b></del>	<del><b>Cooper, Rhonda L.</b></del>	<b>17</b>	<b>Roberts, Carrie</b>
<b>7</b>	<b>Elkins, Jonathan C.</b>	<b>18</b>	<b>Shaw, Joel Patterson</b>
<b>8</b>	<b>Falconer, Ann Stiles</b>	<b>19</b>	<b>Stevens, Mary Lee</b>
<b>9</b>	<b>Ferrebee, Sarah L.</b>	<del><b>20</b></del>	<del><b>Stewart, Daniel-Miller</b></del>
<b>10</b>	<b>Harris, Nathaniel M.</b>	<b>21</b>	<b>Tenenbaum, Lorlee S.</b>
<b>11</b>	<b>Hart, Mamie M.</b>	<b>22</b>	<b>Weil, Roxanne Adelle</b>
<del><b>12</b></del>	<del><b>Levy, Dayle H.</b></del>	<del><b>23</b></del>	<del><b>Wiggers, David Y.</b></del>

**he name and behalf of the citizens of Georgia, charge and accuse**

**TROY ANTHONY DAVIS**

**with the offense of: MURDER**

**for that said accused, in the County of Chatham and State of Georgia, did, on or about the 19th day of August, 1989, unlawfully and with malice aforethought, cause the death of Mark Allen MacPhail, a human being, by shooting him with a pistol, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof;**

**COUNT 2 OBSTRUCTION OF A LAW ENFORCEMENT OFFICER**

**And the jurors aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse TROY ANTHONY DAVIS with having committed the offense of OBSTRUCTION OF A LAW ENFORCEMENT OFFICER; for that the said TROY ANTHONY DAVIS, in the County and State aforesaid, did, on or about the 19th day of August, 1989, knowingly and willfully resist, obstruct and oppose Mark Allen MacPhail, a law enforcement officer, in the lawful discharge of his official duties by doing violence to the person of the said officer, by shooting him with a pistol, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof;**



**COUNT 3 AGGRAVATED ASSAULT**

And the jurors aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse TROY ANTHONY DAVIS with having committed the offense of AGGRAVATED ASSAULT; for that the said TROY ANTHONY DAVIS, in the County and State aforesaid, did, on or about the 19th day of August, 1989, make an assault upon the person of Larry Douglas Young with an object which when used offensively against another person is likely to or actually does result in serious bodily injury by striking the said Larry Douglas Young in the head with a pistol, causing serious bodily injury to him, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof;

**COUNT 4 AGGRAVATED ASSAULT**

And the jurors aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse TROY ANTHONY DAVIS with having committed the offense of AGGRAVATED ASSAULT; for that the said TROY ANTHONY DAVIS, in the County and State aforesaid, did, on or about the 18th day of August, 1989, make an assault upon the person of Michael Cooper with a deadly weapon, by shooting the said Michael Cooper in the face with a pistol, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof;

**COUNT 5 POSSESSION OF FIREARM DURING THE COMMISSION OF A FELONY**

And the jurors aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse TROY ANTHONY DAVIS with having committed the offense of POSSESSION OF FIREARM DURING THE COMMISSION OF A FELONY; for that the said TROY ANTHONY DAVIS, in the County and State aforesaid, did, on or about the 19th day of August, 1989, have on his person a firearm during the commission of a felony offense involving the person of another, to wit: the murder of Mark Allen MacPhail, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof.



**SPENCER LAWTON, JR.  
DISTRICT ATTORNEY  
EASTERN JUDICIAL CIRCUIT  
OF GEORGIA**

We, the Jury, find the defendant \_\_\_\_\_

FOREMAN

, 19

WITNESSES

No. 889-2467-14

Superior Court

of Chatham County, Georgia

SEPTEMBER Term 19 89

THE STATE

VERSUS

TROY ANTHONY DAVIS

BM DOB 10-09-68

SSN 259-23-2053

OFFENSE: MURDER, OBSTRUCTION OF A LAW  
ENFORCEMENT OFFICER, AGGRAVATED  
ASSAULT - TWO COUNTS, POSSESSION  
OF FIREARM DURING COMMISSION  
OF FELONY

BILL

Nov 15, 19 89

David L. Lawton  
FOREMAN

SPENCER LAWTON, JR.  
DISTRICT ATTORNEY  
EASTERN JUDICIAL CIRCUIT  
OF GEORGIA

Defendant, on \_\_\_\_\_

being in open court, pleads \_\_\_\_\_

Defendant \_\_\_\_\_

Attorney for Defendant \_\_\_\_\_

Defendant, on \_\_\_\_\_

waives the right to trial by jury \_\_\_\_\_

Defendant \_\_\_\_\_

Attorney for Defendant \_\_\_\_\_

SPENCER LAWTON, JR.  
(Assistant) District Attorney

Filed in office this 15 day of

November, 19 89

David L. Lawton  
(Deputy) Clerk, Superior Court of  
Chatham County, Georgia

UNIFIED APPEAL

OUTLINE OF PROCEEDINGS

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*Filed in Open Court  
January 16, 1990  
J. C. Schreck  
Dep. Clerk, D.C.C.C. Ga.*

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NOTE: All proceedings in the Superior Court shall be recorded and transcribed. The defendant shall be present during all proceedings in the Superior Court.

Effective Date: September 1, 1989

ENTERED - GA FEB 07 1990

## **UNIFIED APPEAL**

### **OUTLINE OF PROCEEDINGS**

The proceedings outlined here shall be applicable only in cases in which the death penalty is sought.

#### **I. Statement of Purposes**

##### ***A. Purposes of the Outline of Proceedings:***

The Outline of Proceedings is a procedure to be followed before, during and after trial, having as its purposes:

1. Insuring that all legal issues which ought to be raised on behalf of the defendant have been considered by the defendant and his attorney and asserted in a timely and correct manner.
2. Minimizing the occurrence of error and correcting as promptly as possible any error that nonetheless may occur.
3. Making certain that the record and transcripts of the proceedings are complete for unified review by the sentencing court and by the Supreme Court.

##### ***B. Purposes of the Checklist***

1. Appended to the Outline of Proceedings is a *Checklist* of legal issues which may arise in a death-penalty case. Its purpose is to remind the court, defense counsel and the prosecuting attorney of these issues and to provide a quick reference to case authority on these issues. The parties may raise any issue, whether or not it is listed on the checklist. The checklist shall be revised and updated periodically.

2. Proper use of the *Checklist* as a means of avoiding or promptly correcting error will require the court to schedule conferences (see Sections II and III) during which defense counsel and the prosecuting attorney will be given an opportunity to present, or to schedule for presentation, issues which would be waived if not asserted in the proper and timely fashion. These conferences shall be transcribed by the official court reporter.

#### **II. Pre-Trial Proceedings**

##### ***A. First Proceeding***

At the earliest possible opportunity after indictment and before arraignment, the court shall confer with the prosecuting attorney and defense counsel. The defendant shall be present during the conference. The conference shall be recorded and transcribed.

## GEORGIA COURT &amp; BAR RULES

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The following matters shall be concluded during the first proceeding:

1. The prosecuting attorney shall state whether or not he intends to seek the death penalty. (If the prosecuting attorney does not seek the death penalty, these procedures and the checklist are not applicable. If the prosecuting attorney later abandons seeking the death penalty or the sentencing jury returns a verdict of life imprisonment these procedures and the checklist are not applicable.)

2. Defense counsel shall be identified and it shall be made a matter of record whether he is retained or appointed.

3. The Unified Appeal Procedure, as amended, shall be published in The Georgia Court and Bar Rules. Copies of this procedure shall be given to the defendant, defense counsel, and the prosecuting attorney, all of whom shall be instructed to read and adhere to these provisions. A copy also shall be given to the reporter for inclusion in the record. The reporter shall be reminded that the trial shall be completely transcribed as set forth in Rule IV (A). Counsel for the defense shall be instructed that the outline and checklist are intended to assist him or her in protecting the defendant's rights, but it remains the responsibility of defense counsel to protect those rights; the outline and checklist do not take the place of diligent counsel actively representing the defendant.

4. Defense counsel shall be reminded of defendant's right under OCGA § 17-7-110 to demand prior to arraignment a copy of the indictment and a list of the state's witnesses. The prosecuting attorney shall be reminded that the list of witnesses, if demanded, shall be accurate and complete.

5. The court shall determine whether or not the defendant intends to challenge the arrays of the grand or traverse juries. Challenges to the composition of the boxes from which the grand or traverse jury was drawn, and challenges to the manner in which the grand or traverse jury was drawn, shall be presented and heard at the earliest possible time consistent with the court's calendar and with the right of the defendant to seek a continuance. If a challenge is presented, the court shall hear the asserted factual and legal basis of challenge although under law the right to challenge may have been waived.

6. Whether or not a challenge is presented, the court shall nonetheless review the grand and traverse jury lists to determine whether whites, blacks, men and women over the age of eighteen (18) years are fairly represented on these lists. The court shall compare the percentages of whites, blacks, men and women over the age of eighteen (18) years in the county, according to the most recent official decennial census figures, with the percentages of whites, blacks, men and women over the age of eighteen (18) years on the grand jury list and on the traverse jury list. Significant underrepresentation of whites, blacks, men or women over the age of eighteen (18) years on either jury list shall be corrected prior to trial. Imbalances greater than five percent (5%) shall be considered significant. This rule shall not be construed to deprive the defendant of any rights that he may have under the constitutions of the United States and the State of Georgia or under OCGA § 15-12-40.

The court's findings shall be included in the trial judge's report, in the form specified by Rule II (C).

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## UNIFIED APPEAL

7. The court shall give the defendant an opportunity to state any objections he may have to defense counsel, or to the manner in which defense counsel has conducted or is conducting the defense.

8. The court shall review Section I of the checklist with defense counsel and the prosecuting attorney to determine which pre-trial issues the defendant intends to raise. Hearings shall be scheduled for any issues the defense wishes to present. The defendant shall be reminded that issues not raised may be waived if not timely presented.

9. The court shall instruct defense counsel to locate and interview all persons whose testimony might be helpful in discovering or supporting available theories (1) of defense or (2) in mitigation of punishment.

10. The court shall schedule for an appropriate time an arraignment and plea on the merits of the indictment.

### *B. Motion Hearing*

At an appropriate time consistent with the court's calendar and with the right of the defendant to seek a continuance, the court shall conduct a motion hearing. The defendant shall be present, accompanied by his attorney. The hearing shall be recorded and transcribed. The hearing shall precede trial of the case.

The following matters shall be concluded during the motion hearing:

1. All motions previously filed shall be heard.

2. The court shall review Section I of the checklist with defense counsel and the prosecuting attorney to determine if there are possible pre-trial issues that have not been raised. The court shall determine during this conference whether defense counsel intends to allow the deadline for raising of any such issue to pass without presenting the issue for decision. If so, the court shall question defense counsel in the presence of the defendant to determine whether or not defense counsel has explained to the defendant his rights regarding that issue and whether defense counsel and the defendant have agreed not to assert the issue.

3. The court shall remind defense counsel to be prepared to present evidence during the sentencing phase as well as the guilt-innocence phase of the trial.

4. The court shall give the defendant an opportunity to state any objections he may have to defense counsel, or to the manner in which defense counsel has conducted or is conducting the defense.

5. The court reporter shall be advised that all pre-trial proceedings and hearings should be transcribed prior to trial.

### *C. Forms For Required Jury Certificates*

The grand and traverse jury certificates required by Rule II (A) (6) shall comply with the following forms, and shall be included in the trial judge's report specified by OCGA § 17-10-35 (a). (Note: To convert a decimal number to percentage notation, move the decimal point two places to the right. Example: .055 = 5.5%)



## GEORGIA COURT &amp; BAR RULES

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## Grand Jury Certificate

This court has reviewed the Grand Jury List for \_\_\_\_\_ County from which the grand jury was selected that rendered the indictment in this case. This Grand Jury List was last revised in 19\_\_\_\_. The percentages of whites, blacks, men and women on this list have been compared by this court with the percentages of whites, blacks, men and women in the total population of the county aged eighteen (18) and over, according to the 19\_\_\_\_ United States Official Decennial Census. This court certifies that the following information is correct:

- (1) Total county population is .....(1) \_\_\_\_\_
- (2) Total county population aged 18 and over is .....(2) \_\_\_\_\_
- (3) Total number of males in county, aged 18 and over is .....(3) \_\_\_\_\_
- (4) Total number of females in county, aged 18 and over is .....(4) \_\_\_\_\_
- (5) Total number of blacks in county, aged 18 and over is .....(5) \_\_\_\_\_
- (6) Total number of whites in county, aged 18 and over is .....(6) \_\_\_\_\_
- (7) Number of persons on grand jury list is .....(7) \_\_\_\_\_
- (8) Number of males on grand jury list is .....(8) \_\_\_\_\_
- (9) Number of females on grand jury list is .....(9) \_\_\_\_\_
- (10) Number of blacks on grand jury list is .....(10) \_\_\_\_\_
- (11) Number of whites on grand jury list is .....(11) \_\_\_\_\_
- (12) Male percentage of 18 and over population of county (divide answer 3 by answer 2) is .....(12) \_\_\_\_\_%
- (13) Female percentage of 18 and over population of county (divide answer 4 by answer 2) is .....(13) \_\_\_\_\_%
- (14) Black percentage of 18 and over population of county (divide answer 5 by answer 2) is .....(14) \_\_\_\_\_%
- (15) White percentage of 18 and over population of county (divide answer 6 by answer 2) is .....(15) \_\_\_\_\_%
- (16) Male percentage of grand jury list (divide answer 8 by answer 7) is .....(16) \_\_\_\_\_%
- (17) Female percentage of grand jury list (divide answer 9 by answer 7) is .....(17) \_\_\_\_\_%
- (18) Black percentage of grand jury list (divide answer 10 by answer 7) is .....(18) \_\_\_\_\_%
- (19) White percentage of grand jury list (divide answer 11 by answer 7) is .....(19) \_\_\_\_\_%
- (20) Grand jury list disparity regarding males (compare answers 16 and 12; subtract smaller from larger) is .....(20) \_\_\_\_\_%
- (21) Grand jury list disparity regarding females (compare answers 17 and 13; subtract smaller from larger) is .....(21) \_\_\_\_\_%

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## UNIFIED APPEAL

from larger) is ..... (21) \_\_\_\_\_ %  
 (22) Grand jury list disparity regarding blacks  
 (compare answers 18 and 14; subtract smaller  
 from larger) is ..... (22) \_\_\_\_\_ %  
 (23) Grand jury list disparity regarding whites  
 (compare answers 19 and 15; subtract smaller  
 from larger) is ..... (23) \_\_\_\_\_ %

This court certifies that answers (20) through (23), inclusive, are each less than 5%.

## Traverse Jury Certificate

This court has reviewed the Traverse Jury List for \_\_\_\_\_ County from which the defendant's traverse jury panel will be selected. This Traverse Jury List was last revised in 19\_\_\_\_. The percentages of whites, blacks, men and women on this list have been compared by this court with the percentages of whites, blacks, men and women in the total population of the county aged 18 and over, according to the 19\_\_\_\_ United States Official Decennial Census. This court certifies that the following information is correct:

(1) Total county population is ..... (1) \_\_\_\_\_  
 (2) Total county population aged 18 and over is ..... (2) \_\_\_\_\_  
 (3) Total number of males in county, aged 18 and over is ..... (3) \_\_\_\_\_  
 (4) Total number of females in county, aged 18 and over is .... (4) \_\_\_\_\_  
 (5) Total number of blacks in county, aged 18 and over is ..... (5) \_\_\_\_\_  
 (6) Total number of whites in county, aged 18 and over is ..... (6) \_\_\_\_\_  
 (7) Number of persons on traverse jury list is ..... (7) \_\_\_\_\_  
 (8) Number of males on traverse jury list is ..... (8) \_\_\_\_\_  
 (9) Number of females on traverse jury list is ..... (9) \_\_\_\_\_  
 (10) Number of blacks on traverse jury list is ..... (10) \_\_\_\_\_  
 (11) Number of whites on traverse jury list is ..... (11) \_\_\_\_\_  
 (12) Male percentage of 18 and over population  
 of county (divide answer 3 by answer 2) is ..... (12) \_\_\_\_\_ %  
 (13) Female percentage of 18 and over population  
 of county (divide answer 4 by answer 2) is ..... (13) \_\_\_\_\_ %  
 (14) Black percentage of 18 and over population  
 of county (divide answer 5 by answer 2) is ..... (14) \_\_\_\_\_ %  
 (15) White percentage of 18 and over population  
 of county (divide answer 6 by answer 2) is ..... (15) \_\_\_\_\_ %  
 (16) Male percentage of traverse jury list (divide  
 answer 8 by answer 7) is ..... (16) \_\_\_\_\_ %



- (17) Female percentage of traverse jury list (divide answer 9 by answer 7) is .....(17) \_\_\_\_\_%
- (18) Black percentage of traverse jury list (divide answer 10 by answer 7) is .....(18) \_\_\_\_\_%
- (19) White percentage of traverse jury list (divide answer 11 by answer 7) is .....(19) \_\_\_\_\_%
- (20) Traverse jury list disparity regarding males (compare answers 16 and 12; subtract smaller from larger) is .....(20) \_\_\_\_\_%
- (21) Traverse jury list disparity concerning females (compare answers 17 and 13; subtract smaller from larger) is .....(21) \_\_\_\_\_%
- (22) Traverse jury list disparity regarding blacks (compare answers 18 and 14; subtract smaller from larger) is .....(22) \_\_\_\_\_%
- (23) Traverse jury list disparity regarding whites (compare answers 19 and 15; subtract smaller from larger) is .....(23) \_\_\_\_\_%

This court certifies that answers (20) through (23), inclusive, are each less than 5%.

#### *D. Pre-trial Review Hearing*

1. After the completion of all pre-trial proceedings, the court shall conduct a hearing to determine if an interim appellate review of pre-trial rulings is appropriate. The court shall hear from the state and the defense as to whether the delay to be caused by interim appellate review outweighs the need for such review. The court shall order such review and initiate the procedure contained in OCGA § 17-10-35.1, as set forth below, unless the court concludes and enters an order to the effect that interim appellate review would not serve the ends of justice in the case. An order obviating interim appellate review shall not be appealable.

2. If the court concludes that interim appellate review of the pre-trial proceedings is appropriate, the court shall file in the office of the clerk of superior court and deliver to the parties a report certifying that all pre-trial proceedings in the case have been completed and that the case stands ready for trial. Within ten days after the filing of the report or the receipt of transcripts of the pre-trial proceedings, whichever is later, the prosecutor and the defendant may each file with the clerk of superior court and serve upon the opposing party a report identifying all areas of the pre-trial proceedings with respect to which reversible error arguably may have occurred. Either party may consolidate with such

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**UNIFIED APPEAL**

report an application for appeal with respect to any order, decision, or judgment entered in the case. Any such application for appeal shall be in the form otherwise appropriate under OCGA § 5-6-34 (b), except that it shall be filed with the clerk of superior court rather than the clerk of the Supreme Court. The opposing party shall not be required or permitted to respond to such application for appeal, and no certificate of immediate review need accompany such application for appeal.

3. The reports of the trial judge and the parties shall be in the form specified below. Upon the filing of the reports of the parties, the clerk of superior court shall transmit to the Supreme Court the report of the trial judge, the transcripts of the proceedings, and the reports of the parties together with any application for appeal consolidated therewith. The clerk shall furnish a copy of the foregoing to the Attorney General.

***E. Forms for Pre-trial Reports***

Report of the \_\_\_\_\_

(Judge, District Attorney, or  
Defense Attorney)

Is there arguably reversible error with respect to any of the following matters?  
If so, describe the pertinent factual and legal issues:

- (1) Any proceedings with respect to change of venue:
- (2) Any proceedings with respect to recusal of the trial judge:
- (3) Any challenge to the jury array:
- (4) Any motion to suppress evidence:
- (5) Any motion to exclude statements by the defendant:
- (6) Any motion for psychiatric or other mental or physical evaluation:
- (7) Any motion for additional legal, investigative, or expert assistance:
- (8) Any other pretrial matter which may arguably result in reversible

error:

***F. Pre-trial Review in the Supreme Court***

1. The Supreme Court shall issue an order granting review of the pre-trial proceedings, or portions thereof, or denying review within 20 days of the date on which the case is received. The order of the Supreme Court shall identify the matters which shall be subject to review, and such matters may include, but need not be limited to, any matters called to the court's attention in any of the reports or in any application for appeal. If such review is granted, no notice of appeal need be filed. The order granting review shall specify the period of time within which each party shall file briefs and reply briefs as to matters identified in the order granting review. Oral argument shall be discretionary with the court.

2. If requested by the district attorney, the Attorney General shall assist in the review and appeal.

**JRGIA COURT & BAR RULES**

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3. Pre-trial review of any matter as provided for herein shall, as to any question passed on in such review, be res judicata as to such question and shall be deemed to be the law of the case.

4. This pre-trial review procedure shall not apply to any ruling or order made, invoked, or sought subsequent to the filing of the report of the trial judge.

5. The failure of either party to assert their rights under this pre-trial review procedure, or the failure of the Supreme Court to grant review, shall not waive the right to post-trial review of any question which could be raised under this procedure, and shall not constitute an adjudication as to such question.

**III. Trial Proceedings**

**A. Guilt-Innocence Phase**

**1. Before commencement of trial**

Immediately before trial, the court shall confer with the prosecuting attorney and defense counsel. The defendant shall be present during the conference. The conference shall be recorded and transcribed.

The following matters shall be concluded during the conference:

a. All pending motions shall be heard.

b. The court shall determine whether there are any last-minute motions the defense wishes to present and give the prosecuting attorney and defense counsel an opportunity to present any stipulations to which they have agreed.

c. The court shall ascertain whether counsel for both sides have reviewed Part II (A) through (H) of the checklist and are prepared to raise any possible trial issues in a timely manner.

d. The court shall give the defendant an opportunity to state any objections he may have to defense counsel, or to the manner in which defense counsel has conducted or is conducting the defense.

**2. After close of the evidence**

After close of the evidence, but before closing arguments, the court shall confer with the prosecuting attorney and defense counsel. The defendant shall be present during the conference. The conference shall be recorded and transcribed.

The following matters shall be concluded during the conference after close of the evidence:

a. Written requests to charge shall be presented to the court for rulings.

b. The court shall make a final ruling on any issues as to which a tentative ruling or no ruling was made during presentation of the evidence.

c. The court shall hear any timely and otherwise proper motions or objections the defense wishes to present. Defense counsel shall be given an opportunity to perfect the record by making a tender of proof as to any evidence that was excluded by the court.

d. The court shall ascertain whether the parties have reviewed Part II (I) through (Q) of the checklist and are prepared to raise these issues in a timely

9-11

UNIFIED APPEAL

manner. Defense counsel shall be advised that objections to the state's closing argument will be waived if not raised as soon as grounds for such objection arise, unless explicit permission is granted to reserve objection until the conclusion of argument.

e. The court shall give the defendant an opportunity to state any objections he may have to defense counsel, or to the manner in which defense counsel has conducted or is conducting the defense.

**3. After charge of the court**

After charge of the court, the court shall confer with the prosecuting attorney and defense counsel. The defendant shall be present during the conference. The conference shall be recorded and transcribed.

The following matters shall be concluded during the conference after charge of the court:

a. Any issue as to arguments of counsel or as to the charge of the court shall be presented and decided.

b. The court shall hear any timely and otherwise proper motions or objections the defense wishes to present.

c. The court shall give the defendant an opportunity to state any objections he may have to defense counsel, or to the manner in which defense counsel has conducted or is conducting the defense.

**B. Sentencing Phase**

**1. Before commencement of sentencing phase**

Immediately before the commencement of the sentencing phase of the trial, the court shall confer with the prosecuting attorney and defense counsel. The defendant shall be present during the conference. The conference shall be recorded and transcribed.

The following matters shall be taken up during the conference:

a. All pending motions shall be heard.

b. The court shall review Part III of the checklist with defense counsel and the prosecuting attorney. Defense counsel shall be given the opportunity to raise in limine any objections to the state's anticipated evidence in aggravation. However, failure to object in limine shall not amount to a waiver of otherwise timely objections to the introduction of evidence. The court shall give the prosecuting attorney and defense counsel an opportunity to present any stipulations to which they have agreed.

c. In the event of a retrial as to sentence, the court shall also review Part VI of the checklist with defense counsel and the prosecuting attorney.

**2. After close of the evidence**

After the close of the evidence, but before closing arguments, the court shall confer with the prosecuting attorney and defense counsel. The defendant shall be present during the conference. The conference shall be recorded and transcribed.

**GEORGIA COURT & BAR RULES**

**9-12**

The following matters shall be concluded during the conference:

- a. Written requests to charge shall be presented to the court for rulings.
- b. The court shall make a final ruling on any issues raised during the sentencing phase of the trial as to which a tentative ruling or no ruling was made during the presentation of the evidence.
- c. The court shall again review Part III of the checklist with defense counsel and the prosecuting attorney and shall hear any timely and otherwise proper motions or objections the defense wishes to present. Defense counsel shall be given an opportunity to perfect the record by making a tender of proof as to any evidence that was excluded by the court. If the court determines that a mistake was made in the exclusion of potentially mitigating evidence, the court shall reopen the evidence and allow its presentation to the jury.
- d. Defense counsel shall be advised that objections to the state's sentencing-phase closing argument will be waived if not raised as soon as grounds for such objection arise, unless explicit permission is granted to reserve objection until the conclusion of argument.
- e. The court shall give the defendant an opportunity to state any objections he may have to defense counsel, or to the manner in which defense counsel has conducted or is conducting the defense.

**3. After charge of the court**

After charge of the court at the sentencing phase of the trial, the court shall confer with the prosecuting attorney and defense counsel. The defendant shall be present during the conference. The conference shall be recorded and transcribed.

The following matters shall be concluded during the conference after the charge of the court:

- a. The court shall review Part III (C) and (D) with the prosecuting attorney and defense counsel. Any issue as to arguments of counsel or as to the charge of the court shall be presented and decided. Defense counsel shall be advised that any such issue not timely raised shall be waived. Reservations of objection to the sentencing-phase charge will not be permitted.
- b. The court shall also review Part III (E) of the checklist with the prosecuting attorney and defense counsel. Defense counsel shall be advised that objections to the form of the verdict must be raised when the verdict is returned. The court shall note that a poll of the jurors is required.
- c. The court shall give the defendant an opportunity to state any objections he may have to defense counsel or to the manner in which defense counsel has conducted or is conducting the defense.

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**UNIFIED APPEAL**

**IV. Review Proceedings**

***A. In the Superior Court***

Review proceedings in the Superior Court shall be conducted in accordance with the following rules:

**1.**

a. The filing of a motion for new trial is not a procedural prerequisite for review by the Superior Court and Supreme Court. A defendant may but is not required to file a motion for new trial. A defendant may elect to proceed either by motion for new trial, or direct appeal, or may allow the case to be presented directly to the Supreme Court for review. The case nevertheless shall be considered by the Supreme Court.

b. The sole function of a motion for new trial shall be to bring to the attention of the Superior Court after imposition of sentence such grounds as defense counsel may wish the trial court to decide.

c. It shall be the duty of the Superior Court to transmit the entire record of the case to the Supreme Court for review regardless of whether or not a motion for new trial or direct appeal has been filed unless the Superior Court sets aside the conviction or sentence. The Superior Court shall transmit the case to the Supreme Court for review within ten (10) days of the filing by the official reporter of the transcript of trial if no review proceedings have been commenced in the Superior Court in accordance with these rules.

**2.**

a. These rules shall not be construed so as to limit or restrict the grounds of review available through motion for new trial, motion to withdraw a guilty plea, direct appeal, writ of habeas corpus, or any other writ, motion or proceeding cognizable in the courts of this state. It is, however, the purpose of these rules to insure that as many issues as possible which heretofore could be raised by writ of habeas corpus or other post-trial procedure were timely raised before or during trial.

b. The procedures governing the writ of habeas corpus may be employed by any defendant to assert his rights and seek remedies if the procedures established by these rules are inadequate or ineffective in any constitutional sense.

**3.**

It is not the intention of these rules to permit any issues to be raised or presented in the Superior Court or the Supreme Court that previously have been waived, procedurally defaulted, or abandoned pursuant to the laws of this state or of the United States.



## GEORGIA COURT &amp; BAR RULES

9-14

4.

Within forty-five (45) days from the jury's verdict in the sentencing phase of the proceedings, the court reporter shall file with the Superior Court a complete transcript of all phases of the case unless the reporter has obtained an extension of time in writing from the judge who imposed the death sentence. No extension of time for filing the transcript shall exceed fifteen (15) days. When the court reporter files the complete transcript, he or she shall notify the trial judge and defense counsel. For purposes of this rule, the term "complete transcript" shall include a complete transcription of: all pre-trial hearings; the selection of the jurors, including challenges for cause; the voir dire examination and the striking; the opening statements and closing arguments of counsel; the examination of the witnesses; all documentary evidence, including photographs; all oral motions (whether pre-trial, during trial or after trial) and all hearings on oral and written motions; all oral objections and all hearings on oral and written objections; all conferences and hearings of every description and for every purpose conducted between court and counsel, including all bench and chamber conferences; all oral stipulations of counsel; the charges of the court to the jury during the guilt-innocence and sentencing phases of the proceedings; the publication of the verdict and the polling of the jury; the pronouncement of sentence; and all oral comments, instructions, directions, admonitions, rulings and orders of the court in the case from the first proceeding through conclusion of the trial.

5.

a. The hearing on the motion for new trial shall be taken down and transcribed by the reporter. Within twenty (20) days of the hearing by the trial court on the motion for new trial, the court reporter shall file with the trial court a complete transcript of the proceedings on motion for new trial unless the reporter has obtained an extension of time in writing from the Chief Justice of the Supreme Court. No extension of time for filing the transcript shall exceed fifteen (15) days.

b. Additional evidence may be heard under the rules applicable to extraordinary motions for new trial or otherwise as necessary to perfect the record and to rule upon the motion for new trial.

c. The defendant shall be present during the entire hearing on the motion for new trial unless he knowingly, voluntarily, and intelligently has waived this right in writing made a part of the record or upon the transcript of proceedings.

6.

The hearing on the motion for new trial shall not be limited to the grounds of motion asserted by the defendant.

7.

Every defendant shall have the right to be represented by appointed or retained counsel in all matters and at all times during the pendency of a motion for new trial.

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UNIFIED APPEAL

8.

Within thirty (30) days from entry of an order denying a motion for new trial, the Superior Court shall transmit to the Supreme Court the entire record, the trial judge's report required by OCGA § 17-10-35 (a), and the entire transcript of proceedings of the guilt-innocence, sentencing and motion for new trial phases of the case, and all proceedings conducted under these rules as well as any hearings conducted pursuant to law. The defendant may, if he wishes, file a notice of appeal but the case shall be transmitted to the Supreme Court by the Superior Court whether or not a notice of appeal shall have been filed. Except as provided in these rules, the appeal shall be presented, heard and determined in accordance with the rules of the Supreme Court and the Appellate Practice Act.

*B. In the Supreme Court*

Review proceedings in the Supreme Court shall be conducted in accordance with the following rules:

1.

At any time after the case is docketed in the Supreme Court, the Superior Court may be directed by the Supreme Court to conduct further hearings, or to hold additional conferences for specified purposes, or to make additional findings of facts or conclusions of law in respect to issues raised by the parties on appeal or perceived by the Supreme Court although not asserted by the defendant or the state. Any such matter may be referred to the Superior Court for disposition according to a timetable established by the order of the Supreme Court. The Supreme Court shall retain jurisdiction of the entire appeal, unless otherwise specified by order, notwithstanding any matter being referred to the Superior Court, and may take such actions in respect thereto as are necessary or proper pending a decision by the Superior Court on the matter or matters referred to the Superior Court.

2.

In all cases the Supreme Court shall determine whether the verdicts are supported by the evidence according to law. The Supreme Court shall review each of the assertions of error timely raised by the defendant during the proceedings in the trial court regardless of whether or not an assertion of error was presented to the trial court by motion for new trial, and regardless of whether error is enumerated in the Supreme Court. However, except in cases of plain error, assertions of error not raised on appeal shall be waived. The Supreme Court may direct defense counsel and the state to brief and argue any or all additional grounds.



FILED IN OFFICE

IN THE COURT OF CHATHAM COUNTY  
STATE OF GEORGIA

1990 JAN 17 PM 1:03

*R.R. Schreck*  
DEP. CLK. SUPERIOR CT.  
CHATHAM COUNTY, GA

JUDGE: JAMES HEAD  
HEARING: TROY ANTHONY DAVIS

CASE NO: 089-2467  
CHARGE: MURDER

REQUEST TO INSTALL RECORDING AND/OR PHOTOGRAPHIC EQUIPMENT PURSUANT TO RULES AND GUIDELINES FOR ELECTRONIC AND PHOTOGRAPHIC NEWS COVERAGE OF JUDICIAL PROCEEDINGS.

PURSUANT TO RULE 22 OF THE ELECTRONIC AND PHOTOGRAPHIC NEWS COVERAGE OF JUDICIAL PROCEEDINGS IN THE UNIFORM SUPERIOR COURT RULES, THE UNDERSIGNED HEREBY REQUESTS PERMISSION TO INSTALL EQUIPMENT TO RECORD, PHOTOGRAPH OR TELEVISION ALL OR PORTIONS OF THE PROCEEDINGS IN THE ABOVE CAPTIONED CASE.

CONSISTENT WITH THE PROVISIONS OF THE RULES AND GUIDELINES, THE UNDERSIGNED DESIRES TO INSTALL THE FOLLOWING DESCRIBED EQUIPMENT: TV CAMERA AND RECORDER; IN THE FOLLOWING LOCATION: CHATHAM COUNTY COURTHOUSE.

PROCEEDINGS THAT THE UNDERSIGNED DESIRES TO RECORD, PHOTOGRAPH, OR TELEVISION COMMENCE ON JANUARY 16, 1990. SUBJECT TO DIRECTION FROM THE COURT REGARDING POSSIBLE POOLED COVERAGE, THE UNDERSIGNED WISHES TO INSTALL THIS EQUIPMENT IN THE COURTROOM ON JANUARY 16, 1990. THE PERSONNEL FOR THE INSTALLATION AND OPERATION OF THIS EQUIPMENT DURING ITS USE WILL BE: WTOC-TV REPORTER JIM CARSWELL.

THE UNDERSIGNED HEREBY CERTIFIES THAT THE EQUIPMENT TO BE INSTALLED AND THE LOCATIONS AND OPERATION OF SUCH EQUIPMENT WILL BE IN CONFORMITY WITH THE RULES AND GUIDELINES ISSUED BY THE COURT.

THIS 16TH DAY OF JANUARY, 1990

*Larry Lyle*  
LARRY LYLE, NEWS DIRECTOR WTOC-TV

*OK*  
*[Signature]*

ENTERED - GA  
FEB 03 1990

**Savannah Morning News**  
**SAVANNAH EVENING PRESS**

111 WEST BAY STREET, P.O. BOX 1088  
SAVANNAH, GEORGIA 31402-1088  
(912) 236-9511

FILED IN OFFICE

1990 JUN 17 PM 1:03

*J.R. Schmed*  
DEP. CLK. SUPERIOR CT.  
CHATHAM COUNTY, GA

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
STATE OF GEORGIA

STATE VS Troy Anthony Davis, Murder

CASE NO 0892467

REQUEST TO INSTALL RECORDING AND/OR PHOTOGRAPHING EQUIPMENT PURSUANT  
TO RULES AND GUIDELINES FOR ELECTRONIC AND PHOTOGRAPHIC NEWS  
COVERAGE OF JUDICIAL PROCEEDINGS.

Pursuant to Rule 22 of the Electronic and Photographic News Coverage of Judicial Proceedings in the Uniform Superior Court Rules, the undersigned hereby requests permission to install equipment in Courtroom D in order to photograph all or portions of the proceedings in the above captioned case.

Consistent with the provisions of the rules and guidelines, the undersigned desires to place a camera and photographer in the media room at the rear of Courtroom D. The proceedings that the undersigned desires to photograph commence on Jan. 16, 1990. The personnel who will be responsible for the installation and operations of this equipment during its use are Steve Bisson, chief photographer, or a staff photographer he designates.

The undersigned hereby certifies that the equipment to be installed and the locations and operation of such equipment will be in conformity with the rules and guidelines issued by this court.

This Jan. 16, 1990.

*Wallace M. Davis Jr.*  
Wallace M. Davis, Jr.  
Executive Editor  
Savannah Morning News-Evening Press  
P.O. Box 1088, Savannah, GA  
236-9511

APPROVED:

Judge, Superior Court  
Eastern Judicial Circuit

*[Signature]*

ENTERED - GA  
FEB 0 8 1990

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE  
1990 APR 30 PM 12:52  
*R.R. Debeck*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

----- )

INDICTMENT NUMBER: 089-2467-H

MOTION TO REQUIRE THE STATE TO ANSWER  
ALL PRETRIAL MOTIONS IN WRITING

Comes now TROY ANTHONY DAVIS, Defendant in the above styled case, without waiving any valuable rights he might have under law including but not limited to his right to appeal the above captioned matter, and files this his Motion to Require the State to answer all pretrial Motions in writing, and in support thereof, shows this Honorable Court the following:

1. The Defendant has on file, or will file, with this Honorable Court, vital and critically important pretrial Motions relating to discovery of exculpatory evidence and to other matters vital to his defense, and this Court has scheduled a pretrial hearing wherein the State will be required to answer all of the Defendant's previously filed pretrial Motions.


2. The Defendant would request this Honorable Court to require the State to answer the Defendant's pretrial Motions


in writing, for the reason that the Georgia Appellate Courts consistently require that a full and complete record be presented on points which are given to them for review.

3. Therefore, to insure that a complete and accurate record of all of the State's answers and admissions to Defendant's pretrial Motions shall be able to be presented to the Appellate Courts should an appeal from this case be necessary, Defendant requests this Honorable Court to require the District Attorney to file with this Court answers to all pretrial Motions filed by the Defendant.

WHEREFORE, Defendant respectfully requests this Honorable Court to require the District Attorney to file written answers to all of Defendant's pretrial Motions.

THIS 27 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

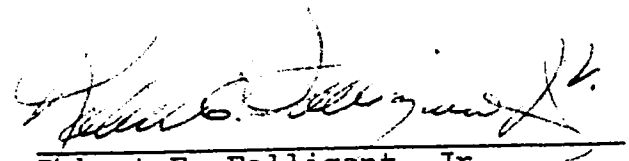
(912) 236-2774

CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

FILED IN OFFICE

1990 APR 30 PM 12:50

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

*R. Barker*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H )

MOTION FOR COMPLETE RECORDATION OF  
ALL PROCEEDINGS

Now comes the Defendant, TROY ANTHONY DAVIS, in the above stated case and moves the Court for an Order directing the Court Reporter to take down and record all hearings on all Motions, the Arraignment, all objections, all bench conferences, all jury voir dire, opening statements, closing arguments, all testimony and each and every proceeding involved in pre-trial and trial in the above stated case and also all conferences held between the District Attorney of this Circuit and any Superior Court Judges concerning the above entitled case when the Defendant or defense counsel is not present.

*Robert E. Barker*  
Robert E. Barker  
State Bar Number: 0037700

*Robert E. Falligant, Jr.*  
Robert E. Falligant, Jr.  
State Bar Number: 254800

Post Office Box 9236  
Savannah, Georgia 31412  
(912) 236-2774

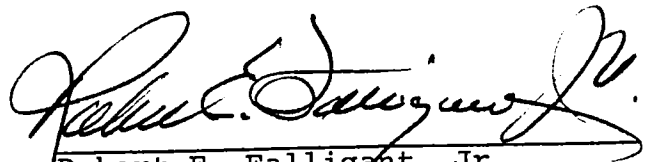
ENTERED-V G B APR 30 1990

CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE

1990 APR 30 PM 12:54

*R. Schesch*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

*#21 is combined  
with #40 For  
Ruling - See #40*

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H

MOTION FOR NOTICE BY THE STATE OF THE INTENTION TO  
USE EVIDENCE ARGUABLY SUBJECT TO SUPPRESSION

Now comes the Defendant, TROY ANTHONY DAVIS, by and through his attorneys of record, and moves this Court for entry of an Order directing the Government to specify all evidence which is arguably subject to suppression.

1. Motions to Suppress must be raised prior to trial if it is possible to do so. In order to expedite the preparation for trial and to avoid unnecessary interruptions during the trial, to hear suppression issues, early notice and pretrial litigation of such questions is imperative.

This Motion calls for the State to advise the Defendant of any specific evidence which is arguably subject to a Motion to Suppress and which it intends to use at trial. By such disclosure Defendant is alerted to the necessity, if it exists, of making a Motion to Suppress. This Motion requests notice of evidence

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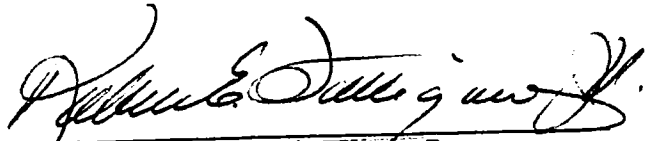
"arguably" subject to suppression. If an argument properly can be made, counsel is entitled to the opportunity to make it. Certainly, the attorneys for the State should not sit as Judges and decide which issues will be exposed to the adversary process and which will be secreted from it.


Indeed, the Government conceded as much in Alderman -v- United States, 394 U.S. 165 (1969), where it agreed that surveillance records "arguably relevant" to the Petitioner's convictions should be turned over to the trial Judge for an in-camera examination and the Supreme Court held that such "arguably relevant" records should be turned over directly to defense counsel. There is no reason to permit a "trial by ambush". See, United States -v- Kelly, 420 F2d 26, 29 (2d Cir. 1969).

This Motion is manifestly in the interest of judicial economy, is necessary to safeguard the Defendant's constitutional right to due process and effective assistance of counsel pursuant to the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article 1, Section 1, Paragraphs 1, 2, 14 and 17 of the 1983 Georgia Constitution.

WHEREFORE, the Defendant moves the Court to issue an Order directing the State comply with the requests as contained herein.

THIS 27 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

74

CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 Montgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE

1990 APR 30 PM 12:51

*R.R. Schreck*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

----- )

INDICTMENT NUMBER: 089-2467-H

MOTION RESERVING THE RIGHT  
TO FILE ADDITIONAL MOTIONS

Now comes the Defendant, TROY ANTHONY DAVIS, through counsel, Robert E. Falligant, Jr., and requests an Order of this Court, reserving his right to file such additional motions as the future progression of this case may merit.

As grounds for this Motion, Defendant states as follows:

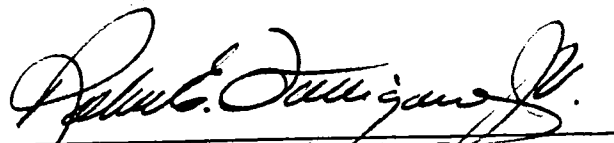
1. Informal discovery is ongoing and incomplete. Problems of availability, as well as propriety of revealing certain information in the possession of the State may arise upon which Defendant may be compelled to file formal Motions with the Court.

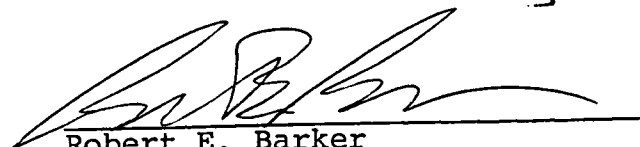
2. The inordinate complexity of the charges brought by the State against the Defendant compel continuing analysis of

ENTERED-V G B APR 30 1990

materials discovered and in process of discovery which may well lead to the necessity of additional substantive Motions.

THIS 27 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

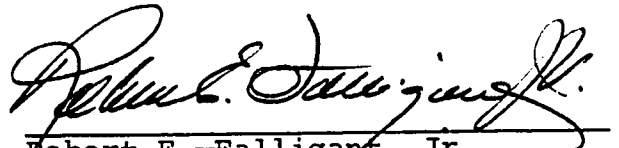
(912) 236-2774

CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTGOMERY STREET  
SAVANNAH, GEORGIA 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

#4

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE  
1990 APR 30 PM 12:52  
*J.R. DeLoach*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

----- )

INDICTMENT NUMBER: 089-2467-H

MOTION FOR WRITTEN RULINGS ON PENDING MOTIONS

Comes now the Defendant, TROY ANTHONY DAVIS, through counsel and files this his Motion for Written Rulings on all pending Motions argued before the Court as to which there has been no request to file briefs or to keep the record open, counsel showing the Court the following:

1. The State has indicated an intention to seek the death penalty against the Defendant.
2. In order to provide the Defendant with effective representation of counsel as defined in the Sixth Amendment to the United States Constitution, counsel should see that clear, definitive and unambiguous rulings addressing all factual, legal and constitutional issues brought before the Court appear in the record and that none of the Motions filed or made are or can be deemed waived in any direct or collateral proceedings, appellate or otherwise.
3. That no Georgia or Federal Appellate Court will consider or review any issue or Motion not specifically ruled on as

error absent ruling clearly addressing issues raised or Motions made.<sup>1</sup> Likewise, trial preparation cannot proceed guessing all Motions pending will ultimately be resolved in the State's favor.


4. To assure that no waiver of any sort that may restrict or deny the Defendant's rights to due process under the Fifth, Fourteenth Amendments to the United States Constitution and Article 1, Section 1, Paragraph 1 of the 1983 Georgia Constitution, Defendant PRAYS:

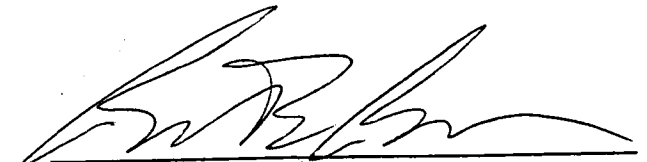
That the Court rule on all Motions pending before the Court not specifically reserved for further evidence, briefs or action, said rulings to include any statutorily or constitutionally required findings of fact and/or conclusions of law.

---

<sup>1</sup>Appeal dismissed as no written Order filed, Georgia Television Company, d/b/a WSB-TV -v- The State, et al, \_\_\_\_\_ Ga. \_\_\_\_\_ (No. 45133 decided October 30, 1987); Georgia Television -v- Castellani, \_\_\_\_\_ Fa. \_\_\_\_\_ (No. 45088, decided October 29, 1987); See Talley -v- Sun Finance Co., 156 SE.2d 55, 223 Ga. 419 (1967); Seabolt -v- Seabolt, 137 SE.2d 642, 220 Ga. 181 (1964); McDonald -v- Wimpy, 56 SE.2d 524, 206 Ga. 270 (1950); Sunn -v- Mercury Marine, 327 SE.2d 562, 173 Ga. App. 593 (1985); West -v- Life Ins. Co. of Virginia, 237 SE.2d 239, 142 Ga. App. 877 (1977); Bell -v- Brewton, 228 SE.2d 600, 139 Ga. App. 463 (1976); Tingle -v- Harvill, 187 SE.2d 536, 125 Ga. App. 312 (1972); Winslette -v- Keeler, 137 SE.2d 288, 220 Ga. 100 (1964); Stout -v- Pate, 69 SE.2d 576, 208 Ga. 768 and Rogers -v- Adams, 105 SE.2d 364, 98 Ga. App. 155 (1958).

THIS 21 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar No. 254800

  
Robert E. Barker  
State Bar No. 0037700

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774



CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 Montgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA

VS.

TROY ANTHONY DAVIS

)  
)  
) INDICTMENT  
) NUMBER 089-2467-H  
)

FILED IN OFFICE  
1990 APR 30 PM 12:52  
*R. Schreck*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

MOTION TO CONTROL PREJUDICIAL PUBLICITY

The Defendant, Troy Anthony Davis, through counsel, moves this Court for Orders (1) excluding the public, and the print and electronic media from all pretrial hearings in his case; (2) prohibiting all attorneys, parties, witnesses, law enforcement personnel and court personnel, who are connected to the prosecution or investigation of this case, from extra-judicially releasing information in any form, to any agent or employee of any news media, concerning any aspect of this proceeding; (3) directing that all records and transcripts in this case be sealed until a jury is impaneled and sequestered or after trial; and (4) prohibiting the use of video or other cameras to photograph the court proceedings herein. Such measures are required by Article 1, Section 1, Paragraphs 1, 2, 14, and 17 of the Georgia Constitution of 1983, and the Fifth, Sixth, Eighth, and Fourteenth Amendments to the Constitution of the United States to protect the Defendant's right to a fair trial by an impartial jury and a fair, reasoned and objective determination of punishment.

IN SUPPORT THEREOF, the Defendant states:

1. The Defendant is before this Court charged with murder and other crimes arising out of a highly publicized

homicide. The District Attorney has announced his intention to seek the Death Penalty.

2. Coverage of the proceedings herein not only results in the dissemination of prejudicial information revealed at those hearings but also triggers the recounting of facts and evidence.

3. The coverage of this case is broad in scope and in its prejudicial nature. As a result, there is a serious and imminent threat to the fair administration of justice in this case. There is no alternative short of those sought in this Motion to preserve the Defendant's right to a fair trial by an impartial jury and his right to a reliable determination of punishment. Under these circumstances, Article 1, Section 1, Paragraphs 1, 2, 14, and 17 of the 1983 Georgia Constitution and the Fifth, Sixth, Eight and Fourteenth Amendments to the United States Constitution require this Court to take appropriate and effective steps to prevent the proceedings and the participants in this case from becoming a source of further prejudicial publicity.

WHEREFORE, for the reasons set out herein and those developed upon an evidentiary hearing on this Motion, the Defendant requests that this Court enter Orders:

1. Excluding the public and the print and electronic media from all pretrial hearings in this case;

2. Prohibiting all attorneys, parties, witnesses, law enforcement personnel and court personnel, who are connected to the prosecution or investigation of this case, from extra-judicially releasing information in any form, to


any agent or employee of any news media, concerning any aspect of this proceeding;

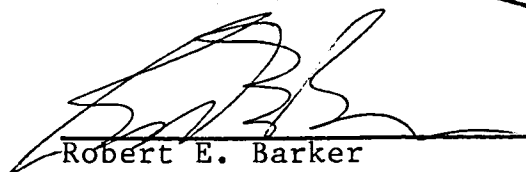
3. Directing that all records and transcripts in this case be sealed until a jury is impaneled and sequestered or after trial; and

4. Prohibiting the use of video or other cameras to photograph the Court proceedings herein.

5. Any other relief which is just and appropriate to protect his constitutional rights set out herein.

This 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number 254800

  
Robert E. Barker  
State Bar Number 037700  
Attorneys for Defendant

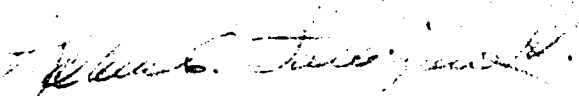
P.O. Box 9236  
Savannah, GA 31412  
(912) 236-2774

CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTGOMERY STREET  
Savannah, Georgia 31499

THIS 21<sup>st</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE  
1990 APR 30 PM 12:52  
*R. R. Debeck*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

----- )

INDICTMENT NUMBER: 089-2467-H

MOTION FOR IMPOSITION OF A GAG ORDER ON BOTH  
THE STATE AND DEFENSE

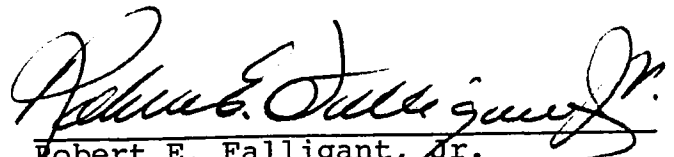
Comes now the Defendant, TROY ANTHONY DAVIS, in the above styled action, by and through his undersigned counsel of record, and hereby moves the Court to Order that neither counsel for the State or Defendant in the above styled case shall make any statements about or release information concerning the above styled case to any individual or entity including, but not limited to, radio, television, or newspaper reporters.

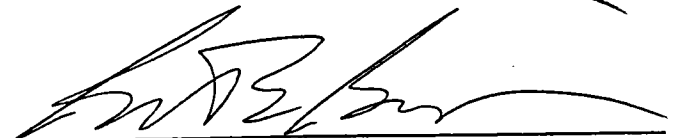
Defendant respectfully submits that a strict "Gag" Order should be imposed on this case covering not only counsel, but all potential witnesses and law enforcement officials who might testify at the trial of the case or who have information concerning the matter that forms the subject of the above styled indictment. Defendant would assert that a "Gag" Order is appropriate in this case because of the inordinate amount of publicity

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that has been given and will be given to this case including up to and during the trial and the entry of such an Order is imperative to insure Defendant's rights to a fair trial and impartial Jury as guaranteed by the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article 1, Section 1, Paragraphs 1, 2, 14 and 17 of the 1983 Georgia Constitution.

THIS 27 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

CERTIFICATE OF SERVICE


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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTGOMERY STREET  
SAVANNAH, GEORGIA 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.



TO THE SUPERIOR COURT OF CHATHAM COUNTY GEORGIA  
 STATE OF GEORGIA  
 COUNTY OF CHATHAM

FILED IN OFFICE  
 1990 APR 30 PM 12:52  
*R. Schneck*  
 CLERK, SUPERIOR CT.  
 CHATHAM COUNTY, GA

THE STATE OF GEORGIA )  
 )  
 ) INDICTMENT NUMBER  
 VS. ) 089-2467-H  
 )  
 TROY ANTHONY DAVIS )

MOTION FOR CHANGE OF VENUE

The Defendant through his undersigned counsel, moves this Court, pursuant to O.C.G.A. 17-7-150, Article 1, Section 1, paragraphs I, XI, and XVII of the Georgia Constitution of 1983, and the Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, for an evidentiary hearing and an Order granting a Change of Venue.

IN SUPPORT THEREOF, Defendant states:

1. The Defendant is charged with murder and the State is seeking the Death Penalty.

2. At least four major newspapers, including the Savannah Morning News, the Savannah Evening Press, the Atlanta Constitution and Atlanta Journal, having circulation in the area of Savannah, Georgia and surrounding counties have published and circulated newspaper articles describing the acts regarding Defendant is charged, and rumors and leads regarding other criminal activity with which the Defendant. The stories contained in this various series of articles by these papers include significant portions of facts and evidence, including hearsay relative to the

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Defendant, the charges and the case, the admissibility of which has not been considered by this Court. In addition, stories regarding the victim and his family have been published in the same papers which include stories relative to the victims family life and the hardship that has resulted to the family brought about by the death of the victim. This information has created an emotionally charged environment within the community and an atmosphere which has severely prejudiced this Defendant and his ability to obtain a fair trial within this community.

3. The same or similar stories were likewise broadcasted over the three local television stations as well as all of the area radio stations which number at least ten including both FM and AM coverage within the community.

4. The facts and details involved in this case have been given such extensive publicity by the newspapers, broadcast media, and other forms of communication operating within this county and in a manner so prejudicial to the Defendant's interest, that a fair trial by an impartial and unbiased jury cannot be had in this county.

5. The reference to charges pending against the Defendant and to the Defendant's background has placed before the prospective jurors information which is incompetent as evidence and has severely prejudiced prospective jurors against the Defendant.

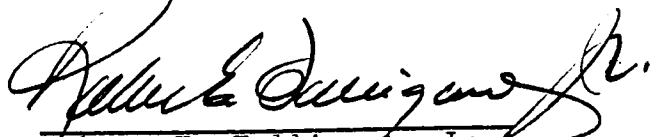
6. The coverage of this case by the combined media, by reporting the death of a police officer in the line of duty working at a second job to earn income for the support

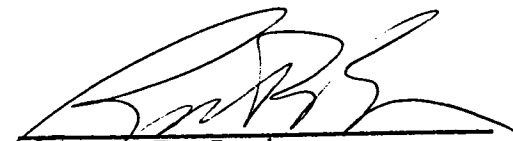
of his family and the facts surrounding the Defendant's background and extensive man hunt conducted prior to his arrest has created an atmosphere of hostility and hatred against the Defendant and one of sympathy for the victim's family. A combination of all of these factors and influences will have an adverse impact on any juror selected to sit in judgment on this case and severely prejudice this Defendant's right to a fair trial.

WHEREFORE, Defendant moves for an evidentiary hearing on this Motion and moves that this Motion for Change of Venue be granted.

Respectfully submitted this 27<sup>th</sup> day of April,  
1989.

FALLIGANT & TOPOREK

  
Robert E. Falligant, Jr.,  
Attorney for Defendant  
State Bar No. 254800

  
Robert E. Barker  
State Bar Number 037700

P.O. Box 9236  
Savannah, GA 31412  
(912) 236-2774

CERTIFICATE OF SERVICE

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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTGOMERY STREET  
SAVANNAH, GEORGIA 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

FILED IN OFFICE

1990 APR 30 PM 12:52

*R. R. Schreck*

IN THE SUPERIOR COURT OF CHATHAM COUNTY,  
SUPERIOR CT.  
CHATHAM COUNTY, GA  
GEORGIA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

----- )

INDICTMENT NUMBER: 089-2467-H

MOTION FOR INDIVIDUAL VOIR DIRE AND  
SEQUESTRATION OF JURORS DURING VOIR DIRE

Now comes TROY ANTHONY DAVIS, the defendant in the above styled indictment and moves this Court to allow counsel to voir dire the prospective jurors individually, separately and apart each from the other and to sequester the jury from the Courtroom during the voir dire in order to prevent the jury panel from hearing the questions being asked individual jurors. In support of his Motion, Defendant shows the Court:

1. Emotionally charged and prejudicial publicity appeared in local papers describing the acts with which Defendant was charged.
2. Collective voir dire of jurors in panels as to their familiarity with the crime, the victim or the probability of Defendant, guilt or innocence, will educate all jurors to prejudicial

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and incompetent material, thereby rendering it impossible to select a fair and impartial jury.

3. The issues in the case require that the voir dire include sensitive and potentially embarrassing questions exploring the prospective juror's bias or prejudice.

4. Collective voir dire of jurors in panels will preclude the candor and honesty on the part of the jurors which is necessary in order for counsel to intelligently exercise their peremptory challenges.

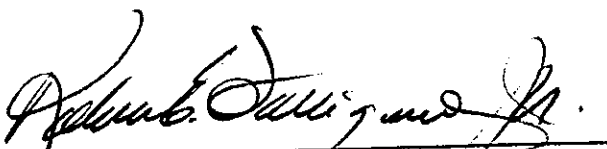
5. If the District Attorney qualifies the jury as to their conscientious belief regarding capital punishment, such collective voir dire will tend to exclude from the jury persons with ambivalent feelings toward the death penalty, as the prospective jurors will not know the specificity and certainty required to be disqualified under the Witherspoon Rule. Prospective jurors will merely see other persons excused for conscientious opposition to the death penalty, and will assert their own ambiguous belief either from a sense of duty or to be excused from jury service.

WHEREFORE, said Defendant prays that the Court order an individual voir dire with each prospective juror examined separately and privately.

THIS 27 day of April, 1990.

  
Robert E. Barker

State Bar Number: 0037700

  
Robert E. Falligant, Jr.  
State Bar Number: 254800


(912) 236-2774

CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTGOMERY STREET  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

FILED IN OFFICE

1990 APR 30 PM 12:52

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
 GEORGIA

*R. R. Dehner*  
 CLERK, SUPERIOR CT.  
 CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H )

MOTION TO PROHIBIT JURY DISPERSAL

Now comes the Defendant, TROY ANTHONY DAVIS and moves the Court that the jurors in the above styled case shall not be allowed to disperse but shall remain together throughout the proceedings in said case and shall not be allowed to communicate with anyone except the Court in Open Court and all such communications shall be reported to the attorney for the Defendant in full.

THIS 27 day of April, 1990.

*Robert E. Barker*  
 Robert E. Barker  
 State Bar Number: 0037700

*Robert E. Falligant, Jr.*  
 Robert E. Falligant, Jr.  
 State Bar Number: 254800

Post Office Box 9236  
 Savannah, Georgia 31412  
 (912) 236-2774

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CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 Montgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
STATE OF GEORGIA

FILED IN OFFICE  
1990 OCT 12 PM 4:13  
DEP. CLK. SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA  
VS  
TROY ANTHONY DAVIS


INDICTMENT NO. 089-2467-H

**DEFENSE MOTION NO. 9  
TO PROHIBIT JURY DISPERSAL**

FOLLOWING THE SELECTION OF THE TWELVE JURORS AND ALTERNATES  
THE JURY SHALL BE SEQUESTERED AND NOT ALLOWED TO BE DISPERSED  
UNTIL A VERDICT IS RENDERED OR A MISTRIAL GRANTED.

THE JURORS SHALL COMMUNICATE WITH THE COURT IN WRITING.

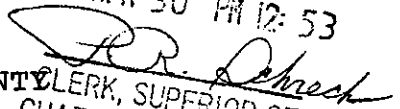
SO ORDERED, THIS 12 DAY OF OCTOBER, 1990.

  
JAMES W. HEAD, JUDGE  
SUPERIOR OCURT E.J.C., GEORGIA

ENTERED-V G B OCT 15 1990

FILED IN OFFICE

1990 APR 30 PM 12:53

  
 CLERK, SUPERIOR CT.  
 CHATHAM COUNTY, GA

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
 GEORGIA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H

----- )

MOTION TO DISCLOSE THE PAST AND  
 PRESENT RELATIONSHIPS, ASSOCIATIONS  
 AND TIES BETWEEN THE DISTRICT ATTORNEY  
AND PROSPECTIVE JURORS

Now comes the Defendant in the above styled case and moves this Court to grant this Motion for Disclosure and as grounds therefor states the following:

1. This case involves sensitive, emotional issues of violence which will make selection of impartial jurors difficult.
2. This difficulty is compounded by the size of the community and the fact that the District Attorney has personal ties with many of the prospective jurors which will impede their ability to make a fair and impartial determination of the issues.
3. Discovery of religious, social, business, professional, recreational, and political associations, and previous employment by or dealings with any prospective juror or juror's family

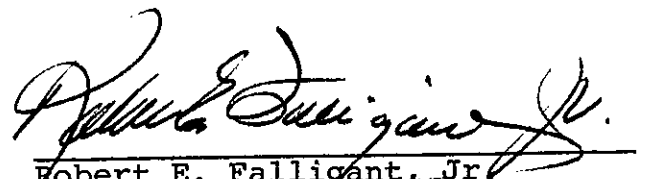
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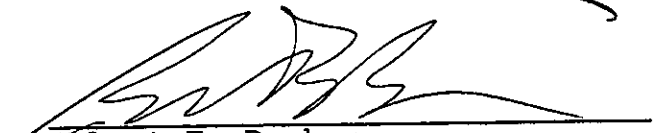
as to the criminal justice system, is essential to a thorough voir dire of the jurors and selection of an impartial jury.

4. Prospective jurors are often hesitant to reveal such relationships.

WHEREFORE, Defendant prays that the Motion for Disclosure be granted along with any further relief the Court may deem appropriate.

THIS 21 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

CERTIFICATE OF SERVICE

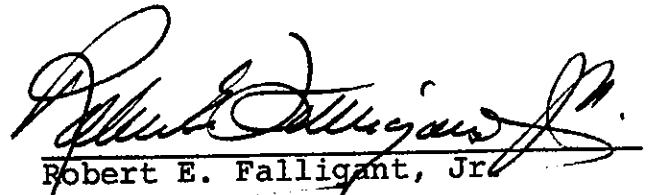
THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 Montgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE  
1990 APR 30 PM 12:53  
*J. R. DeLoach*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

----- )

INDICTMENT NUMBER: 089-2467-H

MOTION TO INVOKE RULE PRIOR TO VOIR DIRE, PROHIBIT  
WITNESSES FROM CONVERSING, AND TO ENJOIN DISTRICT  
ATTORNEY FROM ADVISING WITNESSES OF PREVIOUS TESTIMONY

The Defendant, through counsel, moves this Court, pursuant to O.C.G.A. §24-9-61; Article 1, Section 1, Paragraphs I, XI, XII, XIV, and XVII, and Article V, Section III of the Georgia Constitution of 1983; and the Sixth, Eighth and Fourteenth Amendments to the United States Constitution to enter an Order invoking the rule on witnesses prior to voir dire, ordering that the witnesses be advised not to discuss the testimony which they intend to give or have given with any other prospective witnesses and instructing the District Attorney and his assistants not to advise the witnesses, including police officers, as to their previous statements and the testimony previously given by other witnesses.

IN SUPPORT THEREOF, the Defendant states the following:

1. The purpose of invoking the rule on witnesses is to

preclude the witness' testimony from being tainted by the influence of the attorneys or of other witnesses. A witness should not discuss the case with anyone, and should not listen to either side's theory of the case. See, O.C.G.A. §24-9-61; Lackey -v- State, 246 Ga. 331, 271 SEc2d 478 (1980).

2. During voir dire, attorneys for each side ask questions and make statements to the Jury concerning their case and what they intend to prove during the course of the trial. If witnesses are present in the Courtroom during these statements, their testimony may be affected by the attorney's statement.

3. In the opening statement, attorneys specify what statements a certain witness will make to the Jury. If the witness is present in the Courtroom when the attorney makes this statement, the witness may have a tendency to omit relevant and pertinent testimony which might be beneficial to one side or the other.

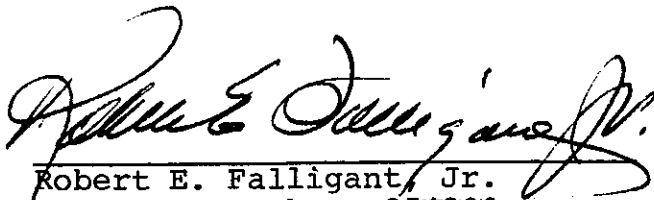
4. The State is seeking the death penalty in this case and there is a greater need for reliable procedures to ensure that witnesses are not tainted by the testimony of other witnesses or the statements of the attorneys.

5. In order to ensure a fair trial and reaffirm the purpose underlying the invocation of the Rule, witnesses and District Attorney's office, must be instructed not to discuss any previously given testimony.

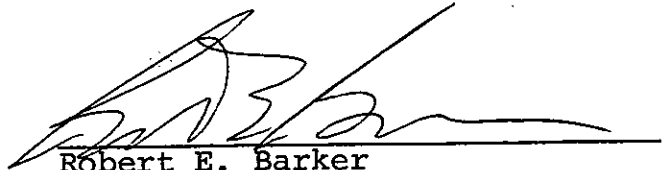
WHEREFORE, Defendant prays that the Court enter an Order granting the relief requested herein and in the event that any

witness violates the Court's Order, that said witness be precluded from testifying in this case.

THIS 27 day of April, 1990.



Robert E. Falligant, Jr.  
State Bar Number: 254800



Robert E. Barker  
State Bar Number: 0037700

~~Post Office Box 9236~~  
Savannah, Georgia 31412

(912) 236-2774



CERTIFICATE OF SERVICE


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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 Montgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

#12

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE  
1990 APR 30 PM 12:53  
*R. Schreck*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA	)	
	)	
-v-	)	INDICTMENT NUMBER: 089-2467-H
	)	
TROY ANTHONY DAVIS	)	
-----	)	

MOTION TO BE FURNISHED THE LIST OF VENIREMEN  
FOR THE WEEK THAT THE CASE IS TO BE TRIED  
AS SOON AS THAT LIST IS COMPLETED

Comes now the Defendant, TROY ANTHONY DAVIS, in the above styled case, without waiving any valuable rights he might have under law including but not limited to his right to appeal the above captioned matter and files this his Motion to be furnished a list of all veniremen for the week that his case is set for trial, as soon as that list is completed and compiled by the appropriate authorities, and in support of said Motion, the Defendant shows this Honorable Court the following:

1. The Defendant stands charged with the offense of murder and comes before this Honorable Court to face the possible punishment of life or death. As a result of the seriousness of the charges and the gravity of the possible punishment, it is imperative that all of Defendant's Constitutional and statutory rights be fully protected. In order to insure that he has

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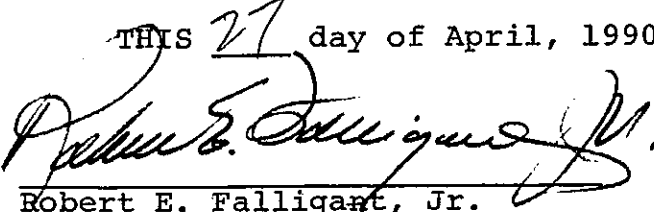
adequate time to properly prepare for the voir dire examination of the Jury which will be selected to sit in Judgment of him, it is requested that he be furnished the list of all veniremen as soon as that list is completed.


2. The request made by the Defendant for a list of the veniremen for the week the trial is scheduled as soon as it is completed imposes no hardship or restriction upon the authorities and personnel obligated to compile such list, and, therefore, would be in no way harmful to the State of Georgia, nor would it be an impossible request to be made to the personnel involved in compiling the list of veniremen.

3. This Motion is brought to insure Defendant's right to due process and effective assistance of counsel and a fair and impartial determination of the issues before the Jury as guaranteed by the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article 1, Section 1, Paragraphs 1, 2, 14 and 17 of the 1983 Georgia Constitution.

WHEREFORE, Defendant respectfully requests this Honorable Court to furnish him with a complete list of all veniremen for the week that the trial is set for trial as soon as that list is compiled and completed by the appropriate persons in charge of that procedure in Chatham County.

THIS 27 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412  
(912) 236-2774

108

CERTIFICATE OF SERVICE

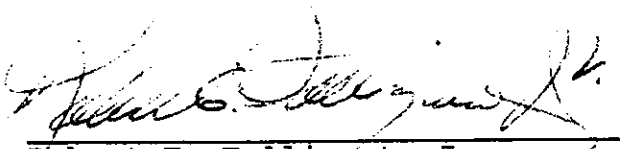
THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 Montgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE

1990 APR 30 PM 12:53

*R. Deane*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H )

MOTION TO REQUIRE THE STATE TO FURNISH PROPOSED  
JURY INSTRUCTIONS TWENTY-FOUR HOURS PRIOR TO TRIAL

The Defendant, TROY ANTHONY DAVIS, by and through counsel, moves this Court pursuant to Rule 10.3 of the Georgia Uniform Rules of Superior Courts, Article I, Section I, Paragraphs I, II, XI, XII, and XVII of the Georgia Constitution of 1983, and the Sixth, Eighth and Fourteenth Amendments to the United States Constitution, to require the State to furnish the Defendant with copies of the State's proposed Jury instructions twenty-four (24) hours in advance of trial.

IN SUPPORT THEREOF, Defendant states the following:

1. Rule 10.3 of the Georgia Uniform Rules of Superior Courts requires "All requests to charge to be submitted to the Court at the commencement of trial, unless otherwise provided by pretrial Order . . .".

2. In the past, it has been customary practice for the

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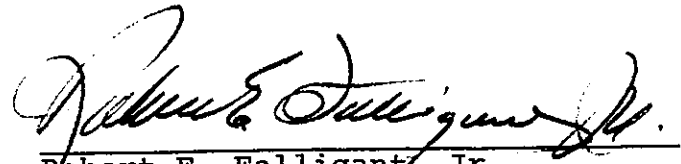
District Attorney's Office to furnish the defense counsel with copies of proposed Jury instructions just prior to their submission to the Court, thereby leaving little time for counsel to properly research objections to them.

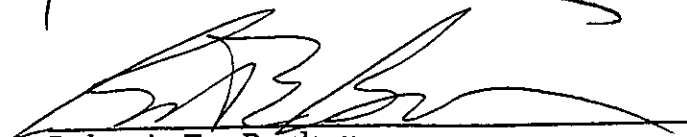
3. Since the Georgia Supreme Court requires specific objections to the instructions at trial, counsel requires at least twenty-four (24) hours prior to trial for study of the proposed instructions.

4. If the District Attorney is premitted to withhold instructions without just cause until the case is about to be submitted to the Jury, the Defendant will be denied his rights to a fair trial.

WHEREFORE, Defendant respectfully prays that this Court require the State to furnish the Defendant with copies of the State's proposed Jury instructions twenty-four (24) hours in advance of trial.

THIS 27 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

CERTIFICATE OF SERVICE

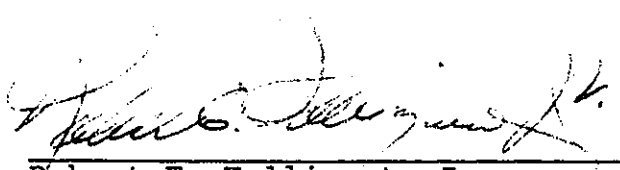
THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 Montgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
STATE OF GEORGIA

FILED IN OFFICE

1990 APR 30 PM 12: 53

STATE OF GEORGIA

VS.

TROY ANTHONY DAVIS

)  
)  
) INDICTMENT  
) NUMBER 089-2467-H  
)

*H. R. DeBrecht*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

DEMAND FOR LIST OF WITNESSES

COMES NOW, the Defendant prior to his arraignment and demands a copy of the complete list of witnesses on whose testimony the charges against him are founded and any and all witnesses who the State expects to call at the trial of this case. This demand is made prior to his arraignment and is made pursuant to Georgia Law 1966, pages 430, 431 and 432.

This 27 day of April, 1990.

*Robert E. Falligant Jr.*  
Robert E. Falligant, Jr.  
State Bar Number 254800

*Robert E. Barker*  
Robert E. Barker  
State Bar Number 037700  
Attorneys for Defendant

P.O. Box 9236  
Savannah, GA 31412  
(912) 236-2774

ENTERED-V.G.B. APR 30 1990



CERTIFICATE OF SERVICE

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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
STATE OF GEORGIA

FILED IN OFFICE

STATE OF GEORGIA

VS.

TROY ANTHONY DAVIS

)  
)  
) INDICTMENT  
) NUMBER 089-2467-H  
)1990 APR 30 PM 12:53  
*P. R. Deane*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GAMOTION FOR DISCOVERY

COMES NOW, the Defendant in the above styled indictment without waiving formal arraignment and moves the Court to require the State through the District Attorney of the Circuit to produce at the trial of the above styled case, and at any and all non-jury hearings of the above styled case, the following documents, pictures and articles:

1. Copies of all reports and memoranda connected with the said charges against the named Defendant.

2. All written statements of witnesses in the possession of the prosecutor relating to the charges against the named Defendant in the above styled indictment.

3. Names, addresses and telephone numbers and whereabouts of all witnesses to be called by the State in the trial of the named Defendant.

4. Statements of all persons including memoranda, summaries or recordings of such statements of any person, made to any law enforcement officer or the investigative staff of any prosecutor in any way connected with the above styled indictment.

5. All memoranda, documents and reports of all law enforcement officers connected with the subject matter of the indictment referred to above as well as the same of the

investigative staff of all prosecutors.

6. Results of all reports of any scientific tests or experiments or studies made in connection with the above styled case and all copies of such reports.

7. All fingerprint documents and reports related to the crimes alleged to have been committed by this Defendant.

8. Names and addresses of all persons who may have some knowledge of facts of the present case in addition to names and addresses given to the attorney for the named Defendant.

9. Full names and addresses of all informers and other persons who gave information which served as a basis for the affidavits for the search warrants for Defendant's home located at 1628 Sylvester Drive, Savannah, Georgia.

10. The full names and addresses of all persons who have given information to the prosecuting attorney or law enforcement officers relating to the arrest of the Defendant and the charges against him.

11. All reports, documents, letters and memoranda which were a basis of affidavits for search warrants for 1628 Sylvester Drive, Savannah, Georgia.

12. The criminal records and any list or summary reflecting criminal records of all persons whom the State intends to call as a witness in the trial of the named Defendant.

13. All written and recorded statements and all summaries or memoranda of any oral or written statements made by the named Defendant and all other Defendants named

in the above styled indictment.

14. All records of the prosecutor showing and tending to show how the persons named on the jury panels sent to the courtroom for the trial of the Defendant have voted in the past on criminal and civil cases.

15. All diagrams, sketches and pictures which have been made by or shown to any witness or prospective witness in the above styled case.

16. The transcript, minutes and record of the Grand Jury proceeding in connection with the return of the above styled indictment.

17. A detailed description of all physical items other than documents and pictures which the prosecutor anticipates using in the trial of the named Defendant and the exact place where and under whose custody such items are being held.

This motion is made under the authority of Brady v. Maryland , 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963); Giles v. Maryland , 386 U.S. 66, 87 S.Ct. 793, 17 L. Ed. 2d 737 (1967); and Williams v. Dutton , 400 Fed.2d 797 (5th Cir. 1968).

The aforesaid documents are in the possession of the State or are available to the District Attorney and are favorable or arguably favorable to the Defendant as to the issue of innocence and punishment.

That all of said documents, pictures and articles are relevant, significant and constitute substantial material evidence and will be useful to the named Defendant

as evidence upon his trial under said indictment.

That the named Defendant cannot safely go to trial on this indictment without the production of said documents and in their absence will be denied the use process of law as guaranteed by Article I, Section I, Paragraph I on the Constitution of the State of Georgia of 1982 (Ga.Code Ann. 2-101) and the Fifth Amendment of the Constitution of the United States of America (Ga. Code Ann. 1-804) made applicable to the States through the Fourteenth Amendment to the Constitution of the United States.

That without the production of the documents referred to above, the Defendant's counsel will not be able to effectively represent him in the above styled case; and thus he will be denied the right of counsel which is guaranteed to him under the provisions of Article I, Section I, Paragraph XI (Ga. Code Ann., 2-111) of the Georgia Constitution of 1976, and the Sixth Amendment of the United States Constitution (Ga Code Ann., 1-806) made applicable to the States through the due process clause of the Fourteenth Amendment of the United States Constitution (Ga.Code Ann., 1-815).

WHEREFORE, The named Defendant prays:

a. That the State be required to produce all documents and other evidence referred to above.

b. Without waiving his right to have his counsel examine said documents, pictures and articles, if the Court does not permit this to be done, that the Court conduct an in camera examination of said documents, pictures and

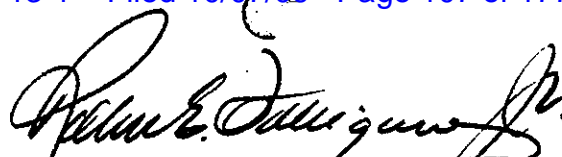
articles, and his counsel be permitted to see and copy or reproduce any of said documents, pictures and articles which the Court determines to be favorable to the named Defendant as to the question of guilt or punishment or for the purpose of impeaching any of the witnesses to be called by the State in the trial of the named Defendant.

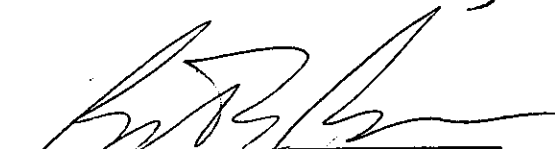
c. That if any part of said documentary evidence is not made available to the named Defendant prior to the commencement of his trial, then without waiving his right to the production of said evidence prior to his trial, he respectfully moves the Court for an order directing the District Attorney to produce all such documents and evidence and to submit the same to his counsel at the close of the State's evidence.

d. Without waiving the foregoing, the Defendant requests that any exact copy be made of each item which is not presented to defense counsel and that the same be sealed and included in the record of this case for the purpose of insuring effective review of the Court's denial of the Defendant's previous request for disclosure.

e. That the duty of the District Attorney to disclose pursuant to this Motion be considered as continuing up until and through the trial and post judgment proceedings.

This \_\_\_\_\_ day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number 254800

  
Robert E. Barker  
State Bar Number 037700  
Attorneys for Defendant

P.O. Box 9236  
Savannah, GA 31412  
(912) 236-2774

CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.



#16

TO THE SUPERIOR COURT OF CHATHAM COUNTY GEORGIA FILED IN OFFICE

STATE OF GEORGIA  
COUNTY OF CHATHAM

1990 APR 30 PM 12: 53  
H. R. Schreack  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

THE STATE OF GEORGIA

VS.

TROY ANTHONY DAVIS

INDICTMENT NUMBER  
089-2467-H

MOTION TO REQUIRE PROSECUTOR TO DISCLOSE EVIDENCE FAVORABLE  
TO THE DEFENDANT UNDER BRADY AND GIGLIO

NOW COMES the Defendant in the above styled case and moves this Court to grant this Motion for Disclosure and as grounds therefor states the following:

1. Movant has been indicted for five felonies in the above styled case and a copy of the Indictment is hereunto annexed and made a part hereof this Motion as Exhibit "A".

2. For several months preceeding the return of said Indictment, a wide and far reaching investigation of the Movant and the crimes for which he has been charged in the Indictment by the Savannah Police Department and other investigative agencies.

3. Movant brings this Motion and shows that he should be afforded all information and evidence in the possession of the State or it's investigation that may be materially favorable to the accused either of a direct or impeaching nature and in this regard, Movant specifically alleges that he is entitled to be afforded with the following items, information and details, to wit:

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(a) Copies of any and all statements allegedly made by the Defendant, whether oral, written, taped recorded or in whatever form that the prosecution intends to introduce into evidence or to rely upon in the trial of said case.

(b) The names and addresses of all persons interviewed and a copy of the statements allegedly made by such persons and whether such statement is oral, written, taped, recorded or otherwise reduced to writing by summary or otherwise.

(c). The total and complete list of all persons interviewed in the entire investigation and the name of the person or persons conducting such interviews, together with a copy and correct account of the interview. If more than one interview has been made as to any person, then a copy and result of each interview should be produced.

(d) Any and all tapes or electronic recordings, written statements or summaries made thereof by any officer or employee of the State, City of Savannah, County, Sheriff or District Attorney's Office with reference to all persons interviewed, whether they are to be called as witnesses for the State or not.

(e) A complete and detailed list of the criminal records of all State's witnesses, including any and all charges which may now be pending against them and which has not yet been officially disposed of by plea, trial or otherwise.

(f) Any and all written reports, documents or any physical evidence that is in the possession of the State or

prosecution relative to this case or the investigation thereof.

(g) The total and complete investigative files of the Savannah Police Department, Georgia Bureau of Investigation, Sheriff's Office, the District Attorney's Office, or any other agency or bureau of the State who may have taken part in any phase of said investigation; together with all correspondence and communications concerning the same.

(h) The names and addresses of all agents, officers and investigators of Savannah Police Department, Georgia Bureau of Investigation, District Attorney's Office, Sheriff's Office, or any other investigative agency who may have participated in said investigation.

(i) Whether or not any person interviewed in reference to said case or the investigation thereof has in any way or manner directly or indirectly been subjected to any coercion, duress, threats, intimidation, punishment, unequal treatment or discrimination and whether any of such persons have been promised immunity from prosecution, leniency or any form of reward, inducement or offer of help or assistance has been held out, offered or made to him.

4. There may be other items and matters of evidence, information, and data in existence that are not enumerated aforesaid and of which Movant is unaware, due to the secrecy surrounding the investigation but in any event Movant now requests and demands that he be afforded with any and all evidence and information, whether specifically


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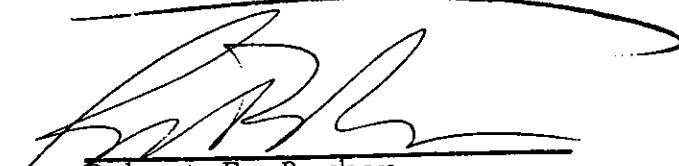
delineated and listed herein or not, that may be materially favorable to the Movant within the context of Brady v. Maryland or Giglio .

5. Movant requests that an evidentiary hearing be held on this Motion in order that a proper foundation may be laid as to what evidence, information and data is in possession of the State and prosecution, and that the State be directed to make such disclosures immediately. Movant requests that all of the State's files, reports, statements and all other items specified herein should be properly identified, examined in camera by the Court, and as to all items that are not disclosed to the defense pursuant to this Motion, that such undisclosed items be deposited into the registry of the Court where they will be available for Appellate review and/or post conviction relief, if necessary.

This 27 day of April, 1990.

FALLIGANT & TOPOREK

  
Robert E. Falligant, Jr.,  
Attorney for Defendant  
State Bar No. 254800

  
Robert E. Barker  
State Bar Number 037700

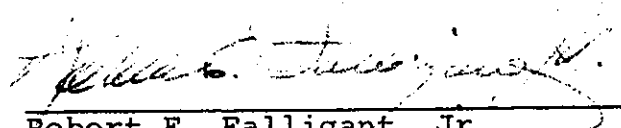
P.O. Box 9236  
Savannah, GA 31412  
(912) 236-2774

CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE  
1990 APR 30 PM 12:54  
*H. R. Schreck*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )  
 )  
 -v- ) INDICTMENT NUMBER: 089-2467-H  
 )  
 TROY ANTHONY DAVIS )  
 )  
 - - - - - )

MOTION FOR COPY OF SCIENTIFIC TESTS

Now comes the Defendant, by and through his counsel,  
and files this, his Motion as above styled and respectfully  
moves the Court as follows:

1. That pursuant to O.C.G.A. §17-7-211, the Defense  
is entitled to copies of all scientific reports at least  
ten (10) days prior to the trial of this case.

WHEREFORE, DEFENDANT PRAYS:

(a) That copies of all scientific reports, made in con-  
junction with the above styled case, be furnished to the  
defense attorneys at least ten (10) days prior to the trial  
of said case; and

(b) In the event that the prosecution does not comply,

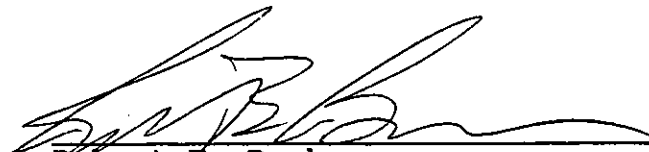
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any such scientific reports, and testimony based thereon,  
shall be excluded and suppressed from the prosecution's  
case-in-chief or in rebuttal.

THIS 27 day of April, 1990.



Robert E. Falligant, Jr.  
State Bar Number: 254-800



Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

CERTIFICATE OF SERVICE

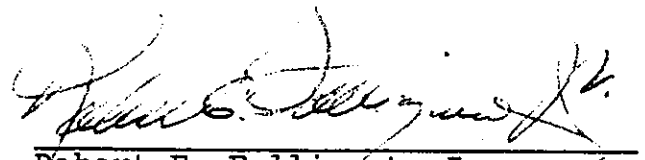
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Savannah, Georgia 31499

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Post Office Box 9236  
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(912) 236-2774

  
Robert E. Falligant, Jr.



IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE  
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*H.R. Schreack*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

----- )

INDICTMENT NUMBER: 089-2467-H

MOTION TO INSPECT, EXAMINE AND TEST PHYSICAL EVIDENCE

Now comes the Defendant and moves this Court to issue an Order compelling the State to produce certain items of physical evidence in its possession and control for inspection, examination and testing by experts designated by the Defendant. Said items of evidence, collected by the State in the investigation of this case, are material and relevant to the issues of guilt, innocence, degree of culpability and effective cross-examination of State witnesses against the Defendant. Each of said items listed below has been examined and tested by the State through its experts and the Georgia Bureau of Investigation Crime Laboratory. Said items of physical evidence the Defendant desires to inspect, examine and test, by and through his designated experts, are set out below:

1. Any clothing taken from the victim.
2. All physical evidence recovered from the place in or

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at which the crime is alleged to have occurred or from any relative of the Defendant.

3. All physical evidence recovered from this Defendant or from the victim.

4. All photographs taken in regard to the alleged crime.

5. All other physical evidence relating in any way to the alleged crime.

6. All latent print cards, photographs, and other print recording data lifted and/or recorded from any source in regard to this case.

7. All fingerprints and palm print cards taken by the State of Georgia.

8. All photographs shown to any person or persons for purposes of identification of a perpetrator of the alleged crime.

9. All handwriting samples of the Defendant in the custody of the State that has been examined and used as evidence in the case.

10. Any tissue or other evidence of the autopsy, what it is, the location of said evidence, and access to the evidence.

11. The request for inspection, examination and testing of the specific items set out above is essential to insure the Defendant his right to a fair hearing, his right to confrontation, his right to prepare a defense in his own behalf, his right to effective counsel, and due process of law guaranteed by the

Fifth, sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article 1, Section 1, Paragraphs 1, 2, 14 and 17 of the 1983 Georgia Constitution as well as those rights now herein enumerated including rights provided by case law.

WHEREFORE, Defendant prays:

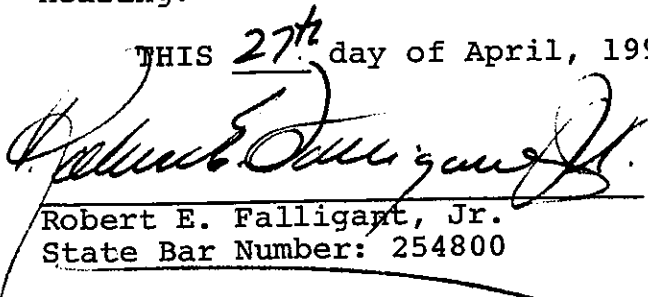
(a) That the District Attorney be Ordered to produce all items of physical evidence described herein and to allow Defendant's experts the right to examine, inspect, conduct scientific tests, and photograph said items at a specific time and place to be fixed by the Court.

(b) That the time set for inspection, testing and photographing of the items requested by Defendant's experts, be at a reasonable time in advance of trial.

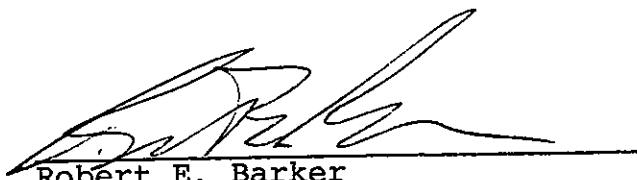
(c) That the Court enter an Order requiring the District Attorney's office to make continuing disclosure of all additional items of physical evidence obtained by the State concerning the charges against the Defendant.

(d) That the Court set this Motion down for an evidentiary hearing.

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

Post Office Box 9236  
Savannah, Georgia 31412  
(912) 236-2774

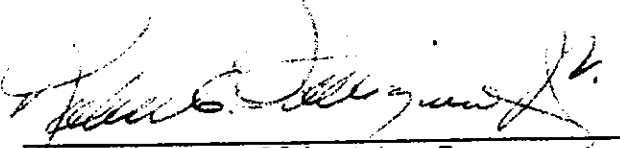
  
Robert E. Barker  
State Bar Number: 0037700

CERTIFICATE OF SERVICE

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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE  
1990 APR 30 PM 12:54  
*H. R. Schreck*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

----- )

INDICTMENT NUMBER: 089-2467-H

MOTION FOR COPY OF DEFENDANT'S STATEMENTS

Now comes the Defendant, by and through his counsel, and files this, his Motion as above captioned and respectfully moves the Court as follows:

1. That pursuant to O.C.G.A. §17-7-210, the Defendant is entitled to have a copy of any statements, either made orally or in writing, reduced to writing and delivered to defense counsel at least ten (10) days prior to the date of trial.

WHEREFORE, DEFENDANT PRAYS:

(a) That all such statements allegedly made by him in conjunction with the above stated indictment be delivered to his attorney at least ten (10) days prior to the trial of said case; and

(b) In the event that the prosecution does not comply,

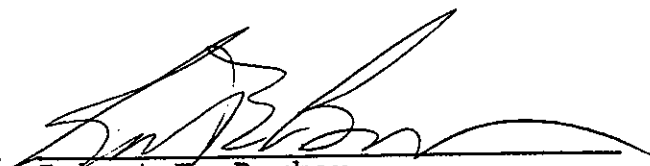
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any such statements shall be excluded and suppressed from the prosecution's use in its case-in-chief or in rebuttal.

THIS 27 day of April, 1990.



Robert E. Falligant, Jr.  
State Bar Number: 254800



Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

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District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE  
1990 APR 30 PM 12:54  
*J.R. Schreck*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H

MOTION FOR PRETRIAL DISCLOSURE OF EVIDENCE OF  
INDEPENDENT AND SEPARATE OFFENSES, WRONGS, OR ACTS

The above named Defendant moves the Court to Order the prosecution to disclose pretrial all evidence of independent and separate offenses, wrongs or acts which the prosecution may attempt to introduce at trial to show motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident regarding the Defendant's actions or conduct.

This request encompasses all crimes, wrongs or acts not enumerated in the indictment.

WHEREFORE, Defendant prays that this Motion be granted and disclosure be ordered immediately.

THIS 27 day of April, 1990.

*Robert E. Falligant, Jr.*  
Robert E. Falligant, Jr.  
State Bar Number: 254800

*Robert E. Barker*  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412  
(912) 236-2774

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137



CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

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1990 APR 30 PM 12:54

*R. Dehech*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )  
----- )

INDICTMENT NUMBER: 089-2467-H

MOTION TO COMPEL DISCLOSURE OF CONFIDENTIAL  
INFORMANT

Now comes the Defendant above named, by and through his attorney, ROBERT E. FALLIGANT, JR., and moves this Court, pursuant to due process clause of the Fourteenth Amendment of the Constitution of the United States, for disclosure to the defense of the name, address, occupation and previous criminal record of the informant listed in the affidavit for the search warrant used in connection with the above styled case.

THIS 27 day of April, 1990

Post Office Box 9236  
Savannah, Georgia 31412  
(912) 236-2774

*Robert E. Falligant, Jr.*  
Robert E. Falligant, Jr.  
State Bar Number: 254800

*Robert E. Barker*  
Robert E. Barker  
State Bar Number: 0037700

ENTERED-V G B APR 30 1990

CERTIFICATE OF SERVICE


THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

FILED IN OFFICE

1990 APR 30 PM 12:54

J. R. Debrech  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GAIN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H )

MOTION FOR THE STATE TO INFORM THE DEFENSE AS TO  
WHAT EVIDENCE AND THE PERSONS WHO TESTIFIED AT  
THE GRAND JURY

Comes now the Defendant, TROY ANTHONY DAVIS, and shows the Court the following:

1. That the Defendant has been indicted for murder and the State has announced it intends to seek the death penalty.


2. To afford the Defendant due process of law pursuant to the Fifth, Sixth, Eighth and Fourteenth Amendments of the United States Constitution and Article 1, Section 1, Paragraphs 1, 2, 14 and 17 of the 1983 Georgia Constitution, it is imperative that he receive from the District Attorney the nature and content of any and all evidence submitted to the Grand Jury in the form of tangible evidence as well as testimony and the names and content of the testimony of each witness who testified before the Grand Jury.


WHEREFORE, the Defendant respectfully moves the Court to issue an Order directing that the State supply the Defense the

ENTERED-VGB APR 30 1990

nature and content of any and all evidence submitted to the Grand Jury in the form of tangible evidence as well as testimony and the names and content of the testimony of each witness who testified.

this 27 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

CERTIFICATE OF SERVICE

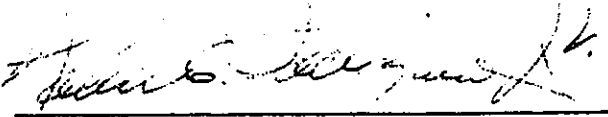
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District Attorney  
Eastern Judicial Circuit of Georgia  
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Savannah, Georgia 31499

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Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE  
1990 APR 30 PM 12:54  
*J. R. Schrock*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA                    )  
                                      )  
      -v-                                ) INDICTMENT NUMBER: 089-2467-H  
                                      )  
TROY ANTHONY DAVIS                )  
-----                                )

MOTION FOR DISCLOSURE OF IMPEACHING  
INFORMATION

The Defendant respectfully moves this Court for entry of an Order directing the State to investigate and disclose all of the following within the possession, custody, control, or the existence of which is known or by the exercise of due diligence could become known to the State:

1. Any and all consideration or promises of consideration given to or made on behalf of government witnesses. By "consideration" Defendant refers to absolutely anything of value or use, including but not limited to immunity grants, witness fees, special witness fees, transportation assistance, assistance to members of witness' family or associates of witness, assistance or favorable treatment with respect to any criminal, civil, or administrative dispute with the State or the United States, and anything else which could arguably create an interest or bias in

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the witness in favor of the State or against the Defendant or acts as an inducement to testify or to color testimony;


2. Any and all prosecutions, investigations or possible prosecutions pending or which could be brought against the witness and any probationary, parole or deferred prosecution status of the witness;


3. Any and all records and information revealing felony convictions attributed to this witness;

4. Any and all records and information showing prior misconduct or bad acts committed by the witness; and

5. Any and all personnel files for the witness.

THIS 27 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774



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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

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District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE

1990 APR 30 PM 12:54

*R. R. Doherty*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H )

MOTION TO PRESERVE EVIDENCE

The above named Defendant moves the Court to order the prosecution and all law enforcement agencies involved in the investigation of this case to perserve and keep intact any investigative reports (including rough drafts), witness statements, documents, papers, rough notes (interview, surveillance, or otherwise), tapes, objects, contraband, controlled substances, or other physical evidence which is in their possession, custody or control, or through the exercise of due diligence could be so possessed or controlled.

WHEREFORE, Defendant prays that the Court order the relief requested herein.

*Robert E. Falligant, Jr.*  
Robert E. Falligant, Jr.  
State Bar Number: 254800

*Robert E. Barker*  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

ENTERED-VGB APR 30 1990

CERTIFICATE OF SERVICE

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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.



Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
GEORGIA

FILED IN OFFICE  
1990 APR 30 PM 12:55  
*David D. Stephens*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H

MOTION FOR DISCLOSURE OF DESTROYED EVIDENCE

Comes now the Defendant and respectfully moves this Court for entry of an Order directing the State to investigate and disclose to the defense whether any evidence in the possession, custody and control or in existence of the State in reference to the charges against Defendant have ever been lost or destroyed since the date of the alleged crimes.


1. For the Defendant to receive a fair trial and due process pursuant to the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article 1, Section 1, Paragraphs 1, 2, 14 and 17 of the 1983 Georgia Constitution, it is critical that he be informed, if in fact evidence in the case has been lost or destroyed by the State.

WHEREFORE, Defendant moves the Court to issue an Order

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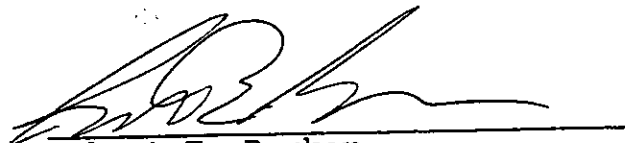
directing that the State reveal to the defense if in fact evidence has been lost or destroyed.

THIS 27 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Barker  
State Bar Number: 0037700

CERTIFICATE OF SERVICE

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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

#27

FILED IN OFFICE

1990 APR 30 PM 12:55

IN THE SUPERIOR COURT OF CHATHAM COUNTY

GEORGIA

*P. Schreck*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA

-v-

TROY ANTHONY DAVIS

INDICTMENT NUMBER: 089-2467-H

MOTION FOR A COPY OF THE GRAND JURY MINUTES

Now comes Defendant, by counsel, and respectfully moves this Court for a copy of the Grand Jury minutes. In support thereof, Defendant shows the following:

1. The Defendant's rights to due process, effective assistance of counsel, and freedom from cruel and unusual punishment, guaranteed by the Fifth, Sixth, Eighth and Fourteenth Amendments of the United States Constitution, and by Article 1, Section 1, Paragraphs 1, 14 and 17 of the Georgia Constitution, as well as the right to cross examine witnesses under the Sixth Amendment to the United States Constitution, require that he be allowed to examine the Grand Jury testimony to prepare his defense.
2. The Defendant has the right to examine the testimony of

ENTERED-VGB APR 30 1990



the State's witnesses who testified to details of the circumstances which allegedly connect the Defendant to the crimes charged. The particularized need for this examination by the Defendant's counse is to prepare the Defendant's defense, to prepare for the impeachment of witnesses, and to test the credibility of the witnesses at trial.

WHEREFORE, Defendant prays that this Honorable Court grant this Motion.


THIS 21 day of April, 1990.



Robert E. Falligant, Jr.  
State Bar Number: 254800

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774



Robert E. Barker  
State Bar Number: 0037700

CERTIFICATE OF SERVICE

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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

TO THE SUPERIOR COURT OF CHATHAM COUNTY  
STATE OF GEORGIA  
COUNTY OF CHATHAM

FILED IN OFFICE  
GEORGIA  
1990 APR 30 PM 12:55  
*R. Schresh*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

THE STATE OF GEORGIA

VS.

TROY ANTHONY DAVIS

)  
)  
) INDICTMENT NUMBER  
) 089-2467-H  
)  
)

MOTION TO BE APPRISED OF WHICH STATUTORY AGGRAVATING  
CIRCUMSTANCES THE STATE WILL RELY ON

Defendant having been advised by the State that the State will seek the Death Penalty, moves that he be advised what aggravating circumstances the State will contend supports the Death Penalty. Defendant requests this information at arraignment. The due process clauses of the Georgia Constitution of 1983, Fourteenth Amendment require that such information be timely furnished so that counsel can effectively prepare their case.

Respectfully submitted this 27 day of April, 1990

FALLIGANT & TOPOREK

*Robert E. Falligant, Jr.*  
Robert E. Falligant, Jr.,  
Attorney for Defendant  
State Bar No. 254800

*Robert E. Barker*  
Robert E. Barker  
State Bar Number 037700

P.O. Box 9236  
Savannah, GA 31412  
(912) 236-2774

156  
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CERTIFICATE OF SERVICE

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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

TO THE SUPERIOR COURT OF CHATHAM COUNTY GEORGIA  
STATE OF GEORGIA  
COUNTY OF CHATHAM

1990 APR 30 PM 12: 55

*A. R. Schneek*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

THE STATE OF GEORGIA

VS.

TROY ANTHONY DAVIS

INDICTMENT NUMBER  
089-2467-H

MOTION FOR PRELIMINARY HEARING

NOW COMES, The Defendant in the above styled case and files this his Motion for Preliminary Hearing and for grounds therefor shows as follows:

1. That Defendant was indicted by the Grand Jury of Chatham County, Georgia during the September term 1989 in a Five Count Indictment.

2. Count Four of the Indictment charges Defendant with the crime of Aggravated Assault committed on or about August 18, 1989 upon the person of Michael Cooper with a deadly weapon to wit a pistol by shooting Michael Cooper in the face.

3. At no time prior heretofor nor at the present has the Defendant ever been afforded the opportunity to confront his accusers nor has he been fully informed as to the circumstances surrounding the alleged crime for which he has been charged in Count Four of the Indictment.

4. It is necessary that the Defendant and the Defendant's attorney have certain information as to the

152 ENTERED-VGB APR 30 1990

crime allegedly committed in order to properly prepare a defense in said case. That without said information and without a preliminary hearing, neither the Defendant nor the Defendant's attorney, can in any respect prepare a defense for the Defendant and the Defendant will be prejudiced thereby.

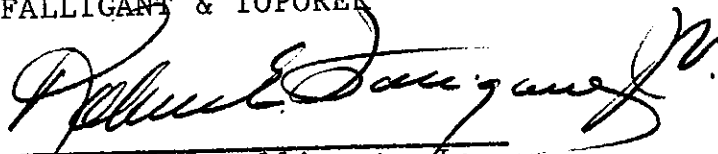
5. There is no possible way whatsoever for the Defendant to have a fair trial or prepare a proper defense without a preliminary hearing being granted.

6. There has never been a proper determination of probable cause to determine if the Defendant was involved in the alleged crime.


WHEREFORE, Defendant prays that the District Attorney for the Eastern Judicial Circuit of Georgia show cause why a preliminary hearing should not be granted in said case and upon the hearing thereof, that this Court Order the District Attorney for the Eastern Judicial Circuit of Georgia provide the Defendant with a preliminary hearing in this matter.

This 21 day of April, 1990.

FALLIGANT & TOPOREK

  
Robert E. Falligant, Jr.,  
Attorney for Defendant  
State Bar No. 254800

P.O. Box 9236  
Savannah, GA 31412  
(912) 236-2774

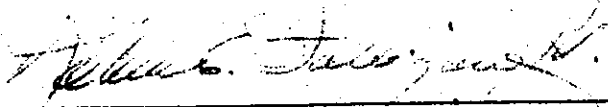
  
Robert E. Barker  
State Bar Number 037700

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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 21<sup>st</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
STATE OF GEORGIA

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OCT 12 11 14  
DEP. CLK. SUPERIOR CT.  
CHATHAM COUNTY, GA

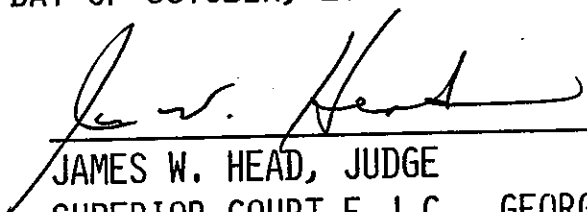
STATE OF GEORGIA  
VS  
TROY ANTHONY DAVIS

INDICTMENT NO. 089-2467-H

DEFENSE MOTION NO. 29  
MOTION FOR PRELIMINARY HEARING

DEFENSE MOTION FOR PRELIMINARY HEARING IS DENIED.  
DEFENDANT WAS INDICTED BY THE GRAND JURY AND DEFENDANT IS NOT  
ENTITLED TO A PRELIMINARY HEARING.

SO ORDERED, THIS 12 DAY OF OCTOBER, 1990.

  
JAMES W. HEAD, JUDGE  
SUPERIOR COURT E.J.C., GEORGIA

ENTERED-VGB OCT 15 1990



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1990 APR 30 PM 12: 55

IN THE SUPERIOR COURT OF CHATHAM COUNTY

GEORGIA

J. R. [Signature]  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H

MOTION FOR COPIES

Comes now the Defendant, TROY ANTHONY DAVIS, in the above styled matter and files this Motion for Copies of all physical evidence the State may seek to introduce into evidence, have examined by and testified to by an expert, referred to in their case-in-chief and/or the penalty phase of the trial. To include but not limited to the following:

1. Any tapes, records or dictated statements of any Defendant or witness. If the statement is on a video or audiotape, a true and accurate copy of such tape in its entirety. To include but not be limited to, any interrogation of the Defendant and/or witness, both in this State or by any other law enforcement agency, investigating or seeking to elicit statements from the Defendant, or any witness in the case at bar.

2. Any video taped record of the crime scene, autopsy or any evidence seized, examined or investigated.

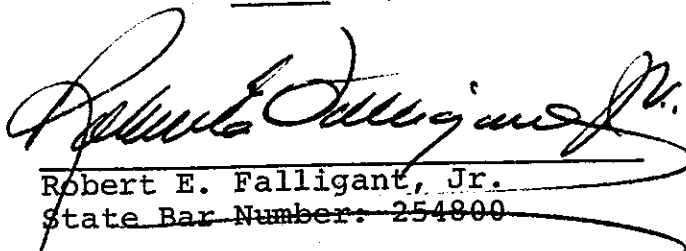
ENTERED-V G B APR 30 1990

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3. Any photographs, both black and colored, of the body of the deceased, the Defendant or witness, any photographic spread shown to any witness, whether or not same could be identified or was not identified and any photographs of any evidence investigated by, seized by the State, which the State may or may not seek to introduce in the trial of the Defendant and any other physical evidence and scientific reports not specifically referred to above for any State agencies, or any local district thereof filed.

Defendant seeks the above copies at the earliest possible date so that same can be examined by his experts and so that he will have his right to fair trial, effective assistance of counsel, equal protection and due process of law as guaranteed by the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article 1, Section 1, Paragraphs 1, 2, 14 and 17 of the 1983 Georgia Constitution.

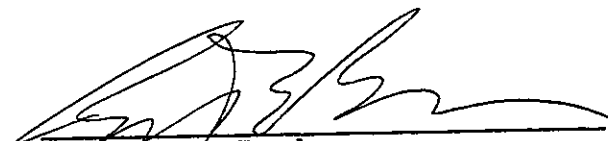
THIS 27 day of April, 1990.



Robert E. Falligant, Jr.  
~~State Bar Number: 254800~~

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774



Robert E. Barker  
State Bar Number: 0037700

CERTIFICATE OF SERVICE

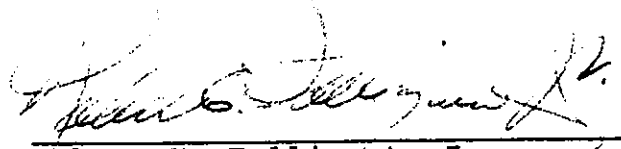
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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

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1990 APR 30 PM 12: 56

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
 GEORGIA

*J. R. Deane*  
 CLERK, SUPERIOR CT.  
 CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H

MOTION TO REVEAL THE DEAL

Now comes Defendant in the above styled action and moves the Court for an Order requiring the District Attorney to respond in writing and inform or reveal to Defendant any agreement, deal or consideration, either past or present deals or considerations entered into between any and all prosecution witnesses and the State of Georgia, including but not limited to the District Attorney's office and the Sheriff's office and/or between such witness and any other law enforcement agency of this or any other State which could conceivably influence or affect the witnesses' credibility or testimony in the above styled action.

Defendant makes this Motion on the following grounds:

1. That the credibility of the testimony of the witnesses in this action will be an important issue and the eviddnce of

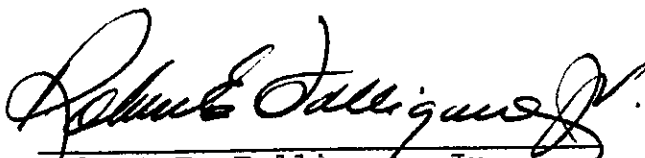
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APR 30 1990

any understandings, agreements, deals or other consideration will be relevant to such witness' credibility and the trial jury is entitled to know of such information.

2. That Defendant is entitled to the aforesaid information under the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article 1, Section 1, Paragraphs 1, 2, 14 and 17 of the 1983 Georgia Constitution; Giglio -v- United States, 405 U.S. 150, 153; 93 S.Ct. 763, 766; 31 L.Ed.2d 104; and Allen -v- State, 128 Ga. App. 361, 196 SE2d 660.

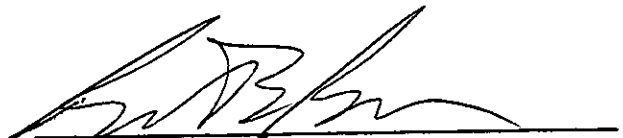
THIS 27<sup>th</sup> day of April, 1990.



Robert E. Falligant, Jr.  
State Bar Number: 254800

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774



Robert E. Barker  
State Bar Number: 0037700

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Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 2<sup>nd</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

FILED IN OFFICE

1990 APR 30 PM 12: 57

IN THE SUPERIOR COURT OF CHATHAM COUNTY

GEORGIA

R. Debeck  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

INDICTMENT NUMBER: 089-2467-H

MOTION FOR CRIMINAL RECORD AND PENDING  
CHARGES OF ALL STATE'S WITNESSES

NOW COMES the Defendant, accused, and moves that the State provide the criminal record and pending charges of all State's witnesses and shows the Court the following:


1. The criminal record and pending charges of State's witnesses are an essential element in confrontation of witnesses, not only in impeachment, but it illustrates their interest, bias, credibility and other reasons.
2. The office of District Attorney has or can obtain this information, which is exculpatory.
3. The accused does not have access to this information.


WHEREFORE, the accused requests this Honorable Court to direct the State to provide this information, at least five

ENTERED - V G B. APR 30 2009

(5) days before trial.

THIS 27 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

  
Robert E. Barker  
State Bar Number: 0037700

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774



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District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

FILED IN OFFICE

1990 APR 30 PM 12: 57

IN THE SUPERIOR COURT OF CHATHAM  
GEORGIA

*R. R. Schreck*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

STATE OF GEORGIA )

-v- )

TROY ANTHONY DAVIS )

----- )

INDICTMENT NUMBER: 089-2467-H

NOTICE TO PRODUCE

TO: SPENCER LAWTON, JR., District Attorney

YOU ARE HEREBY NOTIFIED to produce and have upon the trial of the above styled case and at all hearings on said case and from time to time, and term to term, hereafter until said case is finally concluded the following documents, records and papers:

1. Copies of all reports and memoranda connected with said charges against the named Defendant.
2. All written statements of witnesses in the possession of the prosecutor relating to the charges against the named Defendant in the above styled indictment.
3. Names, addresses and telephone numbers and whereabouts

ENTERED-V G B APR 30 1990

of all witnesses to be called by the State in the trial of the named Defendant.

4. Statements of all persons including memoranda, summaries or recording of such statements of any persons, made to any law enforcement officer or the investigative staff of any prosecutor in any way connected with the above styled case.

5. All memoranda, documents and reports of all law enforcement officers connected with subject matter of the indictment referred to above as well as the same of the investigative staff of all prosecutors.

6. Names and addresses of all persons who may have some knowledge or facts of the present case in addition to names and addresses given to the attorney for the named Defendant.

7. The criminal records and any list or summary reflecting criminal records of all persons whom the State intends to call as a witness in the trial of the named Defendant.

8. All written or recorded statements and all summaries or memoranda of any oral or written statements made by the named Defendant.

9. Results of all reports of any scientific tests or experiments or studies made in connection with the above styled case and all copies of such reports.

10. All records of the District Attorney of the Circuit showing or tneding to show how the persons named on the jury panels sent to the Courtroom for the trial of the named Defendant have voted in the past on civil and criminal cases.

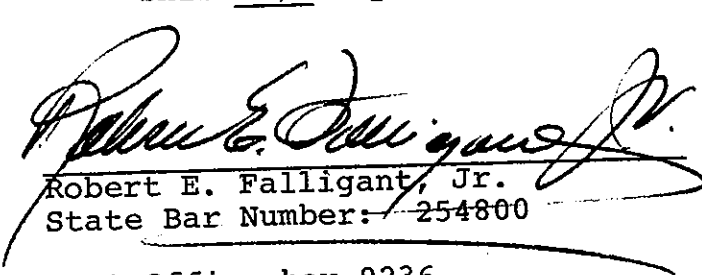
11. All diagrams, sketches and pictures which have been made by or shown to any witness or prospective witness in the above styled case.

12. The transcript, minutes, and record of the Grand Jury proceeding in connection with the return of the above-styled indictment.

13. A detailed description of all physical items other than documents and pictures which the prosecutor anticipates using in the trial of the named Defendant and the exact place where and under whose custody such items are being held.

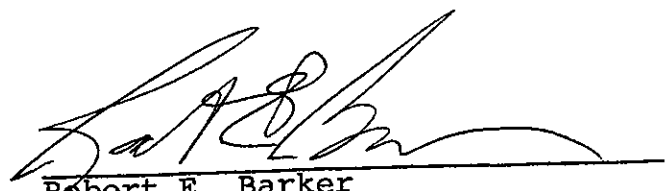
This Notice to Produce is brought pursuant to O.C.G.A. §24-10-22 and §24-10-26 as it is made applicable to criminal cases by O.C.G.A. §24-10-29.

THIS 27 day of April, 1990.

  
Robert E. Falligant, Jr.  
State Bar Number: 254800

Post Office box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Barker  
State Bar Number 0037700

CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

  
Robert E. Falligant, Jr.

TO THE SUPERIOR COURT OF CHATHAM COUNTY GEORGIA  
STATE OF GEORGIA  
COUNTY OF CHATHAM

FILED IN OFFICE  
1990 APR 30 PM 12:57  
*J.R. DeLoach*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

THE STATE OF GEORGIA

VS.

TROY ANTHONY DAVIS

)  
)  
) INDICTMENT NUMBER  
) 089-2467-H  
)  
)

MOTION TO EXCLUDE THE DEATH PENALTY ON ACCOUNT OF THE  
ARBITRARY USE OF PROSECUTORIAL DISCRETION IN THE ABSENCE OF  
STANDARDS IN REQUESTING THE DEATH PENALTY

COMES NOW, The Defendant, and files this his Motion to Exclude Consideration of the Death Penalty by the Jury as a form of punishment pursuant to the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, and Article 1, Section 1, Paragraphs 1, 2, 14 and 17 of the 1983 Constitution of the State of Georgia, as grounds therefore show as follows:

1. Defendant shows that the State has filed a Notice of its intention to seek the Death Penalty in the event of a conviction.

2. Defendant shows that the decision to request the Death Penalty is both arbitrary and capricious use of the prosecutorial indiscretion made without reference to any standards, guidelines, comparison or records in the facts of this case which would distinguish it from cases in which the Death Penalty has not been sought.

3. The Supreme Court of the United States has

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emphasized the "[d]eath, in its finality", is a unique penalty in our society, "qualitatively different" from all other forms of punishment. Woodson v. North Carolina, 428 U.S. 280, 305 (1976). "Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case," Id. : see also Gardner v. Florida, 430 U.S. 349, 357-58 (1977); Lockett v. Ohio, 438 U.S. 586, 604 (1973); Beck v. Alabama, 447 U.S. 625, 637-38 (1980); Eddings v. Oklahoma, 455 U.S. 104, 188 (1982) (O'Connor, J., concurring). Absent a rational distinction between this case and those where the Death Penalty has not been actively pursued, to impose a Death Sentence upon the Defendant would constitute cruel and unusual punishment under the Eighth Amendment to the United States Constitution, and punishment without due process of law as prescribed by the Fourteenth Amendment to the United States Constitution.

4. There is no statutory or constitutional authority permitting the District Attorney or his representatives from exercising prosecutorial discretion in determining which cases the Death Penalty will be sought and which cases it will not. Because of the absence of any statutory or constitutional authority or any ascertainable standard the decision making process regarding seeking the Death Penalty is both arbitrary and capricious and violative of the Equal Protection and Due Process Clauses of the Constitution of the United States and the Constitution of

the State of Georgia of 1983.

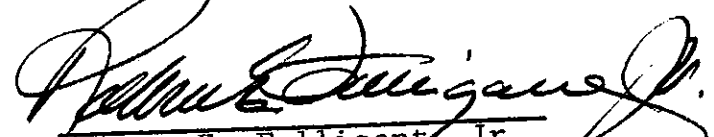
5. To impose a Death Sentence upon this Defendant in the event of a conviction would constitute cruel and unusual punishment under the Eighth Amendment to the United States Constitution, and punishment without due process of law as prescribed by the Fourteenth Amendment to the United States Constitution.


6 The Defendant respectfully request that this Court hold a hearing to take evidence to prove arbitrary and capricious exercise of the discretion by the State and the selection of a plea bargaining processor in Capital Cases generally and in this case specifically.

WHEREFORE, The Defendant moves this Court for an Order excluding the Death Penalty as a possible sanction in this case or, in the alternative, granting permission for the Defendant to present evidence on this his Motion.

Respectfully submitted this 27th day of April, 1990.

FALLIGANT & TOPOREK

  
Robert E. Falligant, Jr.,  
Attorney for Defendant  
State Bar No. 254800

  
Robert E. Barker  
State Bar Number 037700

P.O. Box 9236  
Savannah, GA 31412

(912) 236-2774

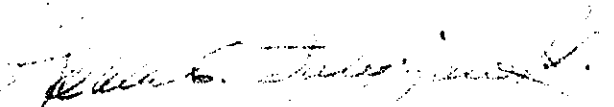


CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 21<sup>st</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

TO THE SUPERIOR COURT OF CHATHAM COUNTY GEORGIA FILED IN OFFICE  
 STATE OF GEORGIA  
 COUNTY OF CHATHAM

1970 APR 30 PM 12:57

*R.R. Schreack*  
 CLERK, SUPERIOR CT.  
 CHATHAM COUNTY, GA

THE STATE OF GEORGIA

VS.

TROY ANTHONY DAVIS

)  
 )  
 ) INDICTMENT NUMBER  
 ) 089-2467-H  
 )  
 )

MOTION TO STRIKE AND QUASH AS UNCONSTITUTIONAL O.C.G.A.  
15-12-164 (a) (4) and O.C.G.A. 15-12-164 (c)

NOW COMES, the Defendant, Troy Anthony Davis, in the above captioned case and shows this Court the following:

1. That he is charged with the offense of murder.
2. That the District Attorney has advised the Defendant, by written notice, he will seek the Death Penalty.
3. That if the State seeks the Death Penalty, Section 15-2-164 (a) (4), O.C.G.A. and Section 15-12-164 (c), O.C.G.A., will be relied upon by the Court in qualifying the jurors summoned for jury duty in said trial.
4. That in addition to the grounds set out in Defendant's Motion to Strike and Quash as Unconstitutional these sections Defendant shows that statute should be quashed and held unconstitutional under the First and Fourteenth Amendments of the Constitution of the United States and Article 1, Section 1, Paragraphs 3 and 4 of the 1983 Georgia Constitution in that it violates the constitutional prohibition against denying the citizens of this state freedom of conscience and religious opinions as

follows:

A.

" 15-12-164, O.C.G.A. Questions on voir dire; setting aside juror for cause.

"(a) On Voir dire examination in a felony trial, the jurors shall be asked the following questions:...

... (4) Are you conscientiously opposed to capital punishment?" If the juror answers this question in the negative he shall be held to be competent juror. ...

... (c) If a juror answers any of the questions set out in subsection (a) of the Code Section so as to render him incompetent if he is found to be so by the Judge he shall be set aside for cause." (cites to Georgia Laws and the unofficial Georgia Code Annotated, Harrison omitted).

B.

Georgia Constitution of 1983:

"Paragraph III. Freedom of conscience.

Each person has the natural and inalienable right to worship God, each according to the dictates of that person's own conscience; and no human authority should, in any case, control or interfere with such right of conscience ;" (Emph. added)

No inhabitant of this State shall be molested in person or property or be prohibited from holding any public office or trust on account of religious opinions ; but the right of freedom of religion shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace and safety of the state". (Emph.

added)

Constitution of the United States, Bill of Rights:

First Amendment

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and petition the Government for a redress of grievances."

Due Process Clause of Fourteenth Amendment

"All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Defendant contends O.C.G.A. 15-12-164 (a) (4) is unconstitutional on its face, in that it disqualifies persons from jury service (either directly or vis a vis Witherspoon , or indirectly vis a vis state preemptory strikes). The "conscientiously opposed" inquiry improperly permits the State an opportunity to ascertain which veniremen have some reservations concerning the imposition of capital punishment even though clearly under Paragraphs 3 and 4, as set out above of the Georgia Constitution no juror

can be excused (public trust) for such beliefs. It is well-settled that a juror cannot be excused for mere general scruples or opposition to the Death Penalty. Even Justice Rehnquist concedes that point in Lockhart v. McCree (39 Cr.L. 3085, 1986). If this Court or any court places itself in the position of removing any part of this Defendant's perrage by an arbitrary and capricious inquiry as to their religious convictions or conscience, the constitutional right to let people not judges sit on juries has evaporated. In the twentieth century, one would hope every citizen would oppose the Death Penalty, a true relic of the past. To exclude people from juries because they are learned, elightened, Christian - "thou shalt not kill", is to return our society to the dark ages, surely not the intention of the founding fathers of our nation or state. Let society benefit from our religious, conscientious, technological, literary and educational advances. To exclude a juror, or even identify a juror as to his conscientious or religious objections to the Death Penalty is clearly unconstitutional in this State and Nation.

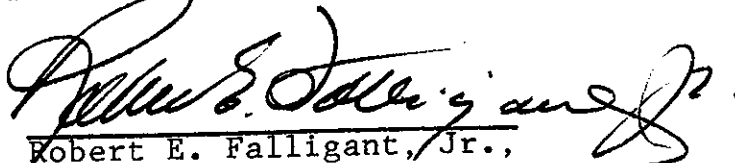
Thus, O.C.G.A. 15-12-164 (a) (4) offers the opportunity to present a question which is probative of an irrelevant state of mind, that being whether the juror has conscientious or religious reservations about the Death Penalty. O.C.G.A. 15-12-164 is unconstitutional as it fails to promulgate a standard for eliminating those venirement who would impose capital punishment under any factual situation where a homicide is involved, and not only where

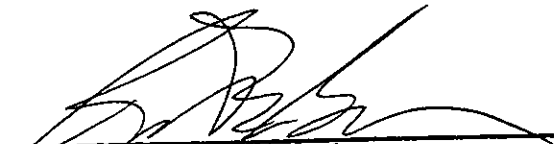
the Death Sentence is deemed appropriate because of the existence of aggravating circumstances as required by O.C.G.A. 17-10-30 ("reverse- Witherspoon jurors). Therefore, the language of the code section is unconstitutional as it: (1) instructs the Court to excuse for cause jurors who cannot constitutionally be so excused; and (2) enables the State to use prospective jurors contrary to the State and Federal Constitutions.

WHEREFORE, Defendant prays that he be allowed to present evidence in support of each and every allegation included in this his Motion and that this Court quash and hold unconstitutional O.C.G.A. 15-12-164 (a) (4) and O.C.G.A. 15-12-164 (c).

Respectfully submitted this 30 day of April, 1990.

FALLIGANT & TOPOREK

  
Robert E. Falligant, Jr.,  
Attorney for Defendant  
State Bar No. 254800

  
Robert E. Barker  
State Bar Number 037700

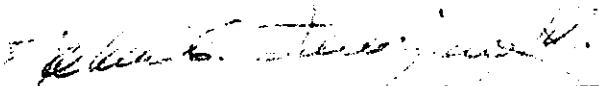
P.O. Box 9236  
Savannah, GA 31412  
(912) 236-2774

CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 Montgomery Street  
Savannah, Georgia 31499

THIS 21<sup>st</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

STATE OF GEORGIA  
COUNTY OF CHATHAM

FILED IN OFFICE  
1990 APR 30 PM 12:57  
*R.R. Debrech*  
CLERK, SUPERIOR CT.  
CHATHAM COUNTY, GA

THE STATE OF GEORGIA

VS.

TROY ANTHONY DAVIS

)  
)  
) INDICTMENT NUMBER  
) 089-2467-H  
)  
)

MOTION TO STRIKE AND QUASH AS UNCONSTITUTIONAL THE GEORGIA  
STATUTES PROVIDING FOR THE IMPOSITION OF THE DEATH PENALTY  
AND THEIR APPLICATION TO THIS CASE

COMES NOW, Troy Anthony Davis, Defendant, by and through his undersigned attorney and shows this Court the following:

1. That he is charged with murder in the above-numbered indictment and the State of Georgia, acting by and through the District Attorney, has given him written notice that it will request that the Death Penalty be imposed in this case in the event that he is convicted and may rely on Georgia Laws 1973, pp. 159, 163 (O.C.G.A. 17-10-30).

2. That said statute should be quashed and held unconstitutional in that it is applied in a way that violates the constitutional prohibition against the use of cruel and unusual punishment in violation of the Eighth and Fourteenth Amendment to the Constitution of the United States and the rule of law espoused and mandated in Furman v. Georgia, 408 U.S. 238, 33 L.Ed. 2d 346, 92 S.Ct. 2726 (1972).

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3. Georgia Laws 1973, pp. 159, 163 (O.C.G.A. 17-10-30) is discretionary and is applied discriminatorily against certain classes of Defendants in violation of the due process and equal protection clauses of Article I, Section I, Paragraph I (Ga. Code Ann., ss 2-101) and Article I, Section II, Paragraph III (Ga. Code Ann., ss 2-203) of the 1983 Georgia Constitution and the Fourteenth Amendment to the United States Constitution.

4. The application of Georgia Laws 1973, pp. 159, 163 (O.C.G.A. 17-10-30) has been unreasonable, arbitrary and capricious because of the lack of definition and direction of application of "mitigating circumstances" resulting in the arbitrary application of the Death Penalty, in violation of the equal protection clause of Article I, Section II, Paragraph III of the 1983 Georgia Constitution (Ga. Code Ann., ss 2-203) and the Fourteenth Amendment to the United States Constitution.

5. The categories of aggravating circumstances in Georgia Laws 1973, pp. 159, 163 (O.C.G.A. 17-10-30) are applied in an unreasonable and arbitrary manner in violation of the equal protection clause of Article I, Section II, Paragraph III of the 1983 Georgia Constitution (Ga. Code Ann., ss 2-203) and the Fourteenth Amendment to the United States Constitution.

6. Georgia Laws 1974, pp. 352, 353 (O.C.G.A. 17-10-30) allows the jury subjective discretion in applying the Death Penalty in violation of the Eighth and Fourteenth Amendments to the United States Constitution.

7. Georgia Laws 1973, pp. 159, 165 (O.C.G.A. 17-10-30), provides for the collection of data on sentences imposed in capital felony cases after January 1, 1970, for purposes of reviewing Death Sentences as excessive, disproportionate or arbitrary. This statutory check against the arbitrary and discriminatory application of the Death Penalty is not being complied with, thereby depriving Defendants sentenced to death of an effective or adequate review of their sentence in violation of due process of law.

8. Georgia Laws 1973, pp. 159, 163 (O.C.G.A. 17-10-30) is applied arbitrarily and discriminatorily against certain classes of defendants in violation of the due process and equal protection clauses of Article I, Section I, Paragraph I, (Ga. Code Ann., ss 2-101) and Article I, Section II, Paragraph III (Ga. Code Ann., ss 2-203) of the 1983 Georgia Constitution and Fourteenth Amendment to the United States Constitution, in that the Georgia Supreme Court compares death cases only with those cases in which a death sentence has been received and in which it has upheld that death sentence.

9. Georgia Laws 1973, pp. 159, 163 (O.C.G.A. 17-10-30) is applied arbitrarily and discriminatorily against certain classes of defendant in violation of the due process and equal protection clauses of Article I, Section I, Paragraph I (G.Code Ann ss 2-101) and Article I, Section II, Paragraph III (Ga. Code Ann., ss 2-101) of the 1976 Georgia Constitution and the Fourteenth Amendment to the United States Constitution, and in violation of the

United States Supreme Court's mandate in Gregg v. Georgia , 428 U.S. 153, 96 S.Ct. 2909, 50 L.Ed.2d 158 (1976) in that the Georgia Supreme Court does not submit written findings comparing cases in which it reviews death sentences with similar cases, but merely lists other cases and states that it has made the required comparison. Such a procedure prohibits a defendant from challenging the affirmation of (his/her) death sentence as arbitrary and discriminatory, because the defendant is given no notice as to which permissible factors the Court has used in such comparison.

WHEREFORE, Defendant prays that:


A. He be given an opportunity to present evidence in support of each and every allegation in this Motion;

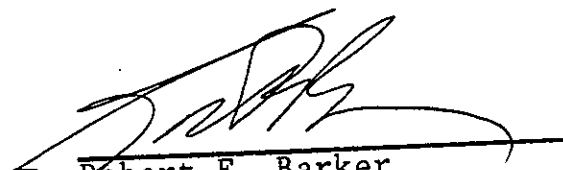
B. That this Court quash and hold unconstitutional the Georgia Laws allowing the imposition of the death penalty; and

C. That this Court grant such further relief as may be just and proper.

Respectfully submitted this 30 day of April, 1990.

FALLIGANT & TOPOREK

  
Robert E. Falligant, Jr.,  
Attorney for Defendant  
State Bar No. 254800

  
Robert E. Barker  
State Bar Number 037700

CERTIFICATE OF SERVICE

THIS will certify that I have this date served opposing counsel with a copy of the foregoing document by depositing same in the United States Postal Service to be delivered to the address listed below:

Mr. Spencer Lawton, Jr.  
District Attorney  
Eastern Judicial Circuit of Georgia  
Chatham County Courthouse  
133 MONTgomery Street  
Savannah, Georgia 31499

THIS 27<sup>th</sup> day of April, 1990.

  
Robert E. Falligant, Jr.

Post Office Box 9236  
Savannah, Georgia 31412

(912) 236-2774

ENTERED-VGB OCT 18 1990

IN THE SUPERIOR COURT OF CHATHAM COUNTY  
STATE OF GEORGIA

FILED IN OFFICE

OCT 18 1990  
Dep. Clerk, Superior Court  
CHATHAM COUNTY, GA.

STATE OF GEORGIA

VS

TROY ANTHONY DAVIS,

DEFENDANT

INDICTMENT NO. 089-2467-H

DEFENSE MOTION NO. 36  
MOTION AS TO UNCONSTITUTIONALITY OF THE GEORGIA  
STATUTES PROVIDING FOR THE IMPOSITION OF THE  
DEATH PENALTY AND THEIR APPLICATION TO THIS CASE


AFTER NOTICE AND HEARING THE COURT RULES ON SAID MOTION  
AS FOLLOWS:

THE DEFENSE MOTION NO. 36 TO STRIKE AND QUASH AS  
UNCONSTITUTIONAL THE GEORGIA STATUTES PROVIDING FOR THE IMPOSITION  
OF THE DEATH PENALTY AND THEIR APPLICATION TO THIS CASE IS DENIED  
ON EACH AND EVERY GROUND ASSERTED THEREIN.

THE ACTS DO NOT VIOLATE THE EIGHTH AND FOURTEENTH  
AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

THE ACTS ARE NOT DISCRIMINATORY AGAINST A CLASS OF CITIZENS  
AND THERE IS NO EVIDENCE TO SUPPORT THE ALLEGATION AND THERE  
IS NO STATE OR FEDERAL CONSTITUTIONAL VIOLATION AS ALLEGED IN  
SAID MOTION NOR HAS THERE BEEN AN UNREASONABLE, ARBITRARY AND  
CAPRICIOUS APPLICATION OF THE DEATH PENALTY WHICH VIOLATES ANY  
CLAUSE OF THE STATE OR FEDERAL CONSTITUTION OR ANY ACT OF THE  
GENERAL ASSEMBLY ENACTED THEREUNDER.

SO ORDERED, THIS 18 DAY OF OCTOBER, 1990.

  
JAMES W. HEAD, JUDGE  
SUPERIOR COURT E.J.C., GEORGIA  
1990